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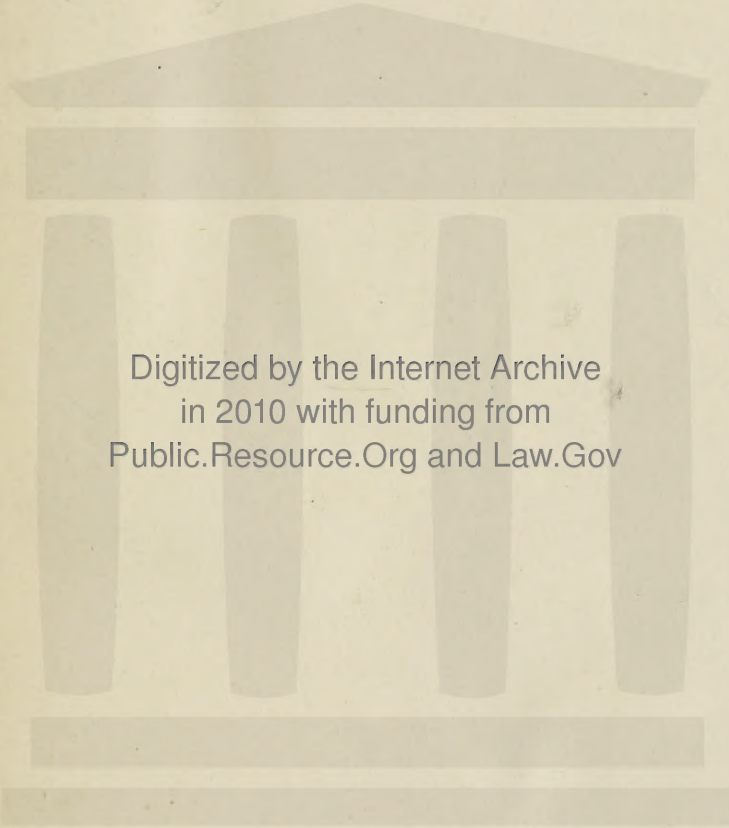
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United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIM-
ITED, an Hawaiian Corporation, Owner of the Steamers
"HELENE," "MIKAHALA," "LIKELIKE," and
"MAUNA KEA," for Itself, the Officers and Crews of
Said Steamers and Other Servants of Said Owners,
Appellee.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant, Thereof,
Appellants,

vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,
Appellee.
and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

MATSON NAVIGATION COMPANY, a California Corpora-
tion, Owner of the Tug "INTREPID," for Itself and the
Officers and Crew of Said Tug,

Appellee.

VOLUME I.
(Pages 1 to 416, Inclusive.)

Filed

Upon Appeals from the United States District Court
for the Territory of Hawaii. JUL 24 1914

United States
Circuit Court of Appeals
For the Ninth Circuit.

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Appellee,

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Appellee,
and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
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Upon Appeals from the United States District Court
or the Territory of Hawaii.

James A.
#76

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[Title of Appellate Court and Cause.]

**Notice of Filing Apostles on Appeal and Appellants'
Designation of Parts of Record to be Printed.**

To the Inter-Island Steam Navigation Co., Ltd., and the Matson Navigation Co. and Their Proctors, Messrs. Smith, Warren & Hemenway, and to the Miller Salvage Co., Ltd., and Messrs. J. A. Magoon and P. L. Weaver, Its Proctors:

Please take notice that the apostles on appeal in the above causes consolidated for trial on appeal were filed in the above-entitled court on the 27th day of May, 1914; and

You are further notified that appellants intend to rely upon all of the assignments of error in said record, except the assignments in which the value of \$22,500 placed upon the ship "Celtic Chief" by the lower court is attacked, the same being part of assignment No. 9 in cases #115 and #116 and assignment No. 6 in case #117 (which last assignments as to said value will be relied upon, however, in case appellees themselves attack said finding and in case they fail to acquiesce in the designations hereinafter made for the omission of the testimony on said subject); and

You are further notified that appellants consider all of the record necessary for the consideration of their said assignments of error with the exception of the following pages of the record, and the following exhibits which appellants do not consider necessary to be printed in said record and desire to have omitted from said record as printed:

2 *The British Ship "Celtic Chief" et al. vs.*

1. Omit pages 2 to 29, inclusive, of the apostles, which pages contain orders extending time to file the apostles on appeal and insert in place thereof the following:

“By various orders the time of appellants to file the apostles on appeal was extended to May 31st, 1914, in all of the three cases involved, namely: Cases #115, #116 and #117.”

2. Omit page 49: Order for attachment in case #115.
3. Omit page 56: Order for attachment in case #116.
4. Omit page 57: Order allowing libelee time to show cause in case #115.
5. Omit pages 58 to 60, inclusive: Monition to U. S. Marshal and marshal's return in case #115.
6. Omit pages 61 to 62, inclusive: Appearance of proctors for claimant in case #115.
7. Omit pages 63 to 65, inclusive: Claim in case #115.
8. Omit page 66: Order allowing libelee further time to show cause in case #115.
9. Omit page 67: Same in case #116.
10. Omit page 68: Appearance of proctors for claimant in case #116.
11. Omit pages 69 to 71, inclusive: Claim in case #116.
12. Omit page 72: Order allowing time to plead in case #115.
13. Omit p. 73: Order allowing time to plead in case #116.
14. Omit pp. 74 to 76 inclusive: Monition and marshal's return in case #116.

15. Omit pp. 77 to 78, inclusive: Stipulation for release of vessel in case #115.
16. Omit pp. 79 to 80, inclusive: Same in case #116.
17. Omit bottom of pp. 87 and 88: Order for attachment in case #117.
18. Omit p. 89: Appearance of proctors for claimants in case #117.
19. Omit pp. 90 to 92, inclusive: Claim in case #117.
20. Omit pp. 93 to 94, inclusive: Stipulation for release of vessel in case #117.
21. Omit pp. 95 to 97, inclusive: Monition and marshal's return in case #117.
22. Omit p. 98: Order of continuance in case #115.
23. Omit p. 99: Same in case #116.
24. Omit p. 100: Same in case #117.
25. Omit p. 101: Same in case #115.
26. Omit p. 102: Same in case #116.
27. Omit p. 103: Same in case #117.
28. Omit p. 128: Same in case #115.
29. Omit p. 129: Same in case #116.
30. Omit p. 130: Same in case #117.
31. Omit pp. 131 to 139, inclusive: Motions to consolidate cases and notices thereof.
32. Omit p. 143: Order of continuance for trial.
33. Omit pp. 144 to 149, inclusive: Orders of consolidation of the three causes in that said consolidation appears elsewhere by a minute order.
34. Omit pp. 150 to 155, inclusive: Affidavit of C. H. Olson on motion for commission to take

4 *The British Ship "Celtic Chief" et al. vs.*

depositions of German witnesses.

35. Omit pp. 156 to 158, inclusive: Application, order and affidavit for fixing time for taking depositions of men on board "Celtic Chief."
36. Omit pp. 159-160, inclusive: Notice of taking said depositions.
37. Omit pp. 161 to 162, inclusive: Stipulation for taking said depositions.
38. Omit p. 163: Order of continuance.
39. Omit pp. 164 to 166, inclusive: Application for commission to take depositions of German witnesses and stipulation regarding same.
40. Omit pp. 167 to 169, inclusive: Application, order and affidavit for taking deposition of C. L. Wight.
41. Omit pp. 170 to 171, inclusive: Notice of taking deposition of C. L. Wight.
42. Omit p. 172: Minutes of hearing on application to take deposition of C. L. Wight.
43. Omit pp. 173 to 201, inclusive: Deposition of C. L. Wight regarding the value of the "Celtic Chief."
44. Omit pp. 202 to 207, inclusive: Affidavit of C. H. Olson in support of applications to take depositions of German witnesses.
45. Omit pp. 208 to 210, inclusive: Objections to application for commission to take depositions of German witnesses.
46. Omit p. 211: Minutes of hearing on objections to interrogatories to be propounded to witnesses.

47. Omit p. 212: Minute order regarding taking deposition of J. Metcalfe, A. F. Pillsbury and J. C. Eschen.
48. Omit pp. 213 to 220, inclusive: Application, affidavit supporting and notice of taking depositions of said witnesses.
49. Omit pp. 221 to 225, inclusive: Application, affidavit supporting and notice of taking depositions of John Hughes and W. W. Kellock.
50. Omit p. 226: Minutes of proceedings in regard to application to take depositions and order regarding interrogatories.
51. Omit pp. 227 to 228, inclusive: Objections to application to take depositions of Hughes and Kellock.
52. Omit p. 229: Minute order to open deposition of H. Haase.
53. Omit p. 230: Minutes of proceedings at opening of same.
54. Omit p. 231: Minutes of proceedings at opening of depositions of F. Connemann and H. Schroeder.
55. Omit p. 232: Minutes of proceedings at opening of depositions of John Hughes and machinists Wehburg and Baer.
56. Omit p. 233: Order setting causes for trial.
57. Omit p. 234: Order of continuance for trial.
58. Omit p. 235: Same.
59. Omit pp. 236 to 238, inclusive: Minutes of proceedings at trial.
60. Omit p. 239: Order of continuance of trial.

6 *The British Ship "Celtic Chief" et al. vs.*

61. Omit p. 240: Order setting cause for further trial.
62. Omit pp. 241 to 254, inclusive: Minutes of proceedings at trial.
63. Omit p. 255: Order of continuance of further trial.
64. Omit pp. 256 to 272, inclusive: Minutes of proceedings at trial.
65. Omit pp. 273 to 278, inclusive: Application to take, affidavit supporting and notice of taking deposition of J. W. McAllister.
66. Omit pp. 299 to 300, inclusive: Certificate to deposition of J. W. McAllister.
67. Omit pp. 301 to 306, inclusive: Application to take, affidavit supporting and notice of taking deposition of M. Barrett and order for same.
68. Omit p. 320: Certificate to deposition of M. Barrett.
69. Omit pp. 321 to 322, inclusive: Minutes of proceedings at trial.
70. Omit p. 323: Order for continuance of further trial.
71. Omit pp. 324 to 325, inclusive: Proceedings at trial.
72. Omit p. 326: Order of continuance of further trial.
73. Omit pp. 327 to 333, inclusive: Minutes of proceedings at trial.
74. Omit p. 335: Index to depositions of men on "Celtic Chief."
75. Omit pp. 607 to 608, inclusive: Certificate to depositions of men on "Celtic Chief."

76. Omit pp. 609 to 610, inclusive: Minutes of proceedings at trial.
77. Omit pp. 611 to 668, inclusive: Depositions of John Metcalfe, J. F. Pillsbury and J. C. Eschen and notices thereof.

(These depositions, however, are to be printed in case appellees designate into the record the testimony of C. L. Wight.)

78. Omit pp. 669 to 674, inclusive: Dedimus Potestatem for examination of John Hughes and order therefor.
79. Omit pp. 675 to 693, inclusive: Direct interrogatories to John Hughes, cross-interrogatories to same and deposition of John Hughes.

(These papers, however, are to be printed in case appellees designate into the record the testimony of C. L. Wight.)

80. Omit pp. 694 to 699 inclusive: Dedimus Potestatem for examination of W. W. Kellock and order therefor.
81. Omit pp. 700 to 722, inclusive: Direct interrogatories to W. W. Kellock, cross-interrogatories to same, and deposition of W. W. Kellock.

(These papers, however, are to be printed in case appellees designate into the record the testimony of C. L. Wight.)

82. Omit pp. 723 to 724, inclusive: Minutes of proceedings at trial.
83. Omit pp. 725 to 733, inclusive: Dedimus Potestatem for examination of H. Schroeder and order therefor.

8 *The British Ship "Celtic Chief" et al. vs.*

84. Omit pp. 741 to 748, inclusive: Objections to interrogatories to H. Schroeder.
85. Omit p. 778: Minutes of proceedings at trial.
86. Omit pp. 779 to 787, inclusive: Dedimus Potestatem for examination of F. M. Conne-mann and order therefor.
87. Omit pp. 795 to 798 inclusive: Objections to direct interrogatories to Lieut. F. M. Connemann.
88. Omit p. 829: Order for continuance of further trial.
89. Omit pp. 830 to 838, inclusive: Minutes of proceedings at trial.
90. Omit pp. 840 to 844, inclusive: Index to testimony, in that new index will be made up in Circuit Court of Appeals.
91. Omit p. 3375: Minutes of court as to reading and filing of decision.
92. Omit pp. 3427 to 3428, inclusive: Notice of final decree by Miller Salvage Co.
93. Omit p. 3440: Order extending time for filing bond on appeal in case #115.
94. Omit p. 3441: Same in case #116.
95. Omit p. 3442: Same in case #117.
96. Omit pp. 3443 to 3445, inclusive: Bond on appeal in case #115.
97. Omit pp. 3446 to 3448, inclusive: Same in case #116.
98. Omit pp. 3449 to 3451, inclusive: Same in case #117.
99. Omit p. 3453: Stipulation for amendment to final decree in case #117 in that the amendment sufficiently appears thereafter.

100. Omit pp. 3457 to 3462, inclusive: Stipulations for reduction in penalties of bonds.
101. Omit pp. 3478 to 3483, inclusive: Affidavits re-filing assignments of error.
102. Omit pp. 3484 to 3489, inclusive: Citations.
103. Omit pp. 3493 to 3497, inclusive: Praeceptum for transcript of record.
104. All original exhibits sent up by the lower court for perusal of Circuit Court of Appeals, said exhibits being as follows:
 - (a) Libelees' Exh. 1 (Loncke drawing).
 - (b) Libelees' Exh. 2 (Loncke drawing).
 - (c) Libelees' Exh. 3 ("Celtic Chief" drawing).
 - (d) Libelees' Exh. 5 (Capt. Piltz diagram).
 - (e) Libelees' Exh. 6 (J. M. Dowsett's diagram).
 - (f) Libelees' Exh. 8 (drawing referred to in Capt. Haglund's testimony).
 - (g) Libelees' Exh. "R" (Comparison sheet introduced on evidence of W. W. Kellock).
 - (h) Libelees' Exh. "S" (Comparison sheet used on deposition of W. W. Kellock).
 - (i) Libelants' Exh. "A" (Lloyds Register in regard to "Celtic Chief").
 - (j) Libelants' Exh. "A" (Inter-Island and Matson drawing).
 - (k) Libelants' Exh. "B" (Miller Salvage Co. drawing).
 - (l) Libelants' Exh. "C" (Inter-Island and Matson drawing).

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- (m) Libelants' Exh. "D" (Miller Salvage Co. time-book).
- (n) Libelants' Exh. "F" (Inter-Island Co. drawing referred to in Capt. Macauley's testimony).
- (o) Libelants' Exh. "G" (Drawing referred to in Capt. Macauley's testimony).
- (p) Libelants' Exh. "H" (Drawing referred to in Capt. Tullet's testimony).
- (q) Libelants' Exh. "I" (Photograph of "Celtic Chief" referred to in Capt. Tullet's testimony).
- (r) Libelants' Exh. "J" (Photograph of "Intrepid" and "Mauna Kea" referred to in Capt. Tullet's testimony).
- (s) Libelants' Exh. "K" (Photographs of "Celtic Chief" referred to in Capt. Tullet's testimony).
- (t) Libelants' Exh. "L" (Photographs of "Celtic Chief" referred to in Capt. Tullet's testimony).
- (u) Libelants' Exh. "M" (Report of Engineer Faneuf).
- (v) Libelants' Exh. "N" (Light signals referred to in evidence of Capt. Haglund).
- (w) Libelants' Exh. "Q" (Drawing in deposition of Capt. Henry).
- (x) Libelants' Exh. "R" (Mail contract of Inter-Island Co.).
- (y) Libelees' Exh. "B" and Libelants'

Exh. "O " and "P.," being various hemp and steel hawsers.

Said exhibits are designated out of the printed record for the reason that in accordance with Rule 14, Subdivision 4, of the Circuit Court of Appeals said exhibits are not required to be printed, and appellants give notice that if any of said exhibits are printed by appellees, said appellees will themselves pay for such printing.

105. Omit the extended title of court and cause in all cases except on the first page and in the three libels, and insert in place thereof the words "Title of Court and Cause," together with the number of the case or cases referred to in such captions.
106. Omit all endorsements on the various pleadings and exhibits except the words "Filed" and the date of filing and the number of the case and the number of the exhibit and whose exhibit it is.
107. Omit stipulations filed in the Circuit Court of Appeals for hearing cases upon one consolidated record in that the court minute order on said stipulations will sufficiently show such consolidation.

Dated: May 29, 1914.

E. B. McCLANAHAN,
S. H. DERBY,
Proctors for Appellants.

I hereby certify that a duplicate of the above notice and designation was mailed to local counsel for appellants on the 29th day of May, 1914, for the purpose

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of serving the same upon the proctors for the appellees.

Dated: May 29th, 1914.

S. H. DERBY,
Of Counsel for Appellants.

[Endorsed]: Notice of Filing Apostles on Appeal and Appellants' Designation of Parts of Record to be Printed. Filed Jun. 2, 1914.

[Receipt for Copy of Notice of Filing of Apostles on Appeal and Appellants' Designation Under Rule 23.]

[Title of Appellate Court and Cause.]

Receipt of a copy of Appellants' Notice of Filing of Apostles on Appeal and Appellants' Designation of Parts of Record to be Printed is hereby admitted this 4th day of June, 1914.

CHARLES P. EELLS,
W. H. ORRICK,

Proctors for Appellees Inter-Island and Matson Companies.

[Endorsed]: Receipt for Copy of Appellants' Notice of Filing of Apostles on Appeal and Designation of Parts of Record to be Printed. Filed Jun. 12, 1914.

[Title of Appellate Court and Cause.]

Receipt for Copy of Notice of Filing of Apostles on Appeal and Appellants' Designation Under Rule 23.

Received a copy of the within Notice of Filing Apostles on Appeal and Appellants' Designation of

Parts of Record to be Printed this 6th day of June, 1914, at Honolulu, Territory of Hawaii.

W. O. SMITH,

L. J. WARREN,

C. R. HEMENWAY,

Proctors for Inter-Island Steam Navigation Co. and
Matson Navigation Co.

PHILIP L. WEAVER,

J. ALFRED MAGOON.

By P. L. WEAVER,

Proctors for Miller Salvage Co., Ltd.

[Endorsed]: Served Copy of Notice of Filing
Apostles on Appeal and Appellants' Designation of
Parts of Record to be Printed. Filed Jun. 15, 1914.

[Title of Appellate Court and Cause.]

**Order Entered May 28, 1914, That Appeals may be
Heard on One Consolidated Printed Record, etc.**

On motion of Mr. S. H. Derby, counsel for the appellants, and pursuant to the three stipulations of counsel concerning the record on appeal in the above-entitled cause, which said stipulations were filed herein on the 27th day of May, A. D. 1914:

It is ORDERED that the appeals in the above-entitled cause may be heard upon one consolidated printed record, and that the appellant may file one brief covering the three appeals, reserving, however, to the appellees the right to file a separate brief on each appeal, if they so elect.

[Title of Appellate Court and Cause.]

**Stipulation and Order for Consideration of Exhibits
on Appeal.**

WHEREAS in the above-entitled causes consolidated on appeal the appellants have filed herein a notice of the filing of the Apostles on Appeal and designation of parts of the record to be printed, and have therein designated the entire record as necessary for the consideration of their assignments of error, and to be printed under Section 7 of Rule 23 of this Court, with the exception of certain portions of said record particularly specified, and except certain exhibits specified by appellants as unnecessary to be printed in said record, but with the expectation on the part of said appellants that said exhibits would nevertheless be considered on said appeals under Section 4 of Rule 14 of this Court; and

WHEREAS all of the exhibits in said causes have been withdrawn from the files of the Clerk of the United States District Court for the District of Hawaii, by order of the presiding Judge of said United States District Court, and forwarded to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit together with the record on said appeals, but said exhibits were not by said order of withdrawal expressly specified by said United States District Judge (under Section 4 of Rule 14 of this Court) as necessary to be inspected by the Circuit Court of Appeals upon said consolidated appeals, and to be considered by said Appellate Court in connection with the transcript of the proceedings;

THEREFORE, it is hereby stipulated and agreed between said appellants and the appellees, the Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company, that the several exhibits designated as “(a)” to “(y),” both inclusive, under specification number 104, in the appellants’ designation of parts of the record as not necessary to be printed, shall nevertheless be deemed part of the record on said appeals herein in like manner as though printed or as though formally designated by the presiding Judge of said District Court, under Section 4 of Rule 14 of this Court, as necessary to be inspected by this Court upon said appeals, and to be received and considered by this Court as original papers in connection with the transcript of the proceedings, as though under said Rule 14 without necessity of being printed.

Dated Honolulu, T. H., June 9th, 1914.

E. B. McCLANAHAN,
S. H. DERBY,

Proctors for Appellants.
CHARLES D. EELLS,
WILLIAM H. ORRICK,
L. J. WARREN,

Proctors for Appellees Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company.

Approved:

WM. W. MORROW,
Judge of the United States Circuit Court of Appeals,
Ninth Circuit.

[Endorsed]: Stipulation and Order for Consideration of Exhibits on Appeal. Filed Jun. 18, 1914.

[Apostles on Appeal.]

Names and Addresses of Attorneys.

For Libellants Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company:

SMITH, WARREN & HEMENWAY,
Rooms 206-210 Bank of Hawaii Building,
Honolulu, Hawaii.

For Libellant Miller Salvage Company, Limited:

J. A. MAGOON, Magoon Building, Honolulu, Hawaii, and

P. L. WEAVER, Room 505 Stangenwald Building, Honolulu, Hawaii.

For Libellee The British Ship "Celtic Chief" and John Henry, Master and Claimant:

HOLMES, STANLEY & OLSON, #863
Kaahumanu Street, Honolulu, Hawaii.
[1*]

**[Orders Extending Time to File Apostles on Appeal
(Memorandum Regarding).]**

[By various orders the time of appellants to file the apostles on appeal was extended to May 31st, 1914, in all of the three cases involved, namely: Cases #115, #116, and #117.]

*Page-number appearing at foot of page of original certified Record.

*In the United States District Court in and for the
District and Territory of Hawaii.*

No. 115.

INTER-ISLAND STEAM NAVIGATION COM-
PANY, LIMITED,

Libellant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle,
etc.,

Libellee.

JOHN HENRY, Master and Claimant.

No. 116.

MILLER SALVAGE COMPANY, LIMITED,

Libellant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle,
etc.,

Libellee.

JOHN HENRY, Master and Claimant.

No. 117.

MATSON NAVIGATION COMPANY, a Corpora-
tion,

Libellant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle,
etc.,

Libellee.

JOHN HENRY, Master and Claimant.

Statement Under Admiralty Rule 4. [30]

TIME OF COMMENCING SUIT.

December 13, 1909. Verified Libel was filed and motion was issued to the United States Marshal for the District of Hawaii. (In cause No. 115.)

December 15, 1909. Verified Libel was filed and motion was issued to the United States Marshal for the District of Hawaii. (In cause No. 116.)

December 30, 1909. Verified Libel was filed and motion was issued to the United States Marshal for the District of Hawaii. (In cause No. 117.)

NAMES OF ORIGINAL PARTIES.

LIBELLANT: Inter-Island Steam Navigation Company, Limited, an Hawaiian corporation, owner of the steamers "Helene," "Mikahala," "Like-like" and "Mauna Kea," for itself, the officers and crews of said steamers, and other servants of said Owners. (In cause No. 115.)

LIBELLEEE: The British ship "Celtic Chief," her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 115.)

CLAIMANT: John Henry, Master. (In cause No. 115.)

LIBELLANT: Miller Salvage Company, Limited, a corporation. (In cause No. 116.)

LIBELLEEE: British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money. (In cause No. 116.)

CLAIMANT: John Henry, Master. (In cause No. 116.) [31]

LIBELLANT: Matson Navigation Company, a California corporation, owner of the Tug "Intrepid," for itself, and the officers and crew of said Tug. (In cause No. 117.)

LIBELLEE: The British ship "Celtic Chief," her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 117.)

CLAIMANT: John Henry, Master. (In cause No. 117.)

DATES OF FILING OF PLEADINGS.

December 13, 1909. Libel. (In cause No. 115.)

December 15, 1909. Libel. (In cause No. 116.)

December 30, 1909. Libel. (In cause No. 117.)

December 17, 1909. Claim of John Henry, Master of the British ship "Celtic Chief" and the lawful bailee thereof, her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 115.)

December 24, 1909. Claim of John Henry, Master of the British ship "Celtic Chief" and the lawful bailee thereof, her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 116.)

December 30, 1909. Claim of John Henry, Master of the British ship "Celtic Chief" and the lawful bailee thereof, her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 117.)

January 11, 1910. Answer of Claimant, John Henry. (In causes Nos. 115, 116 and 117.)

January 14, 1910. Motion to Consolidate. (In causes Nos. 115, 116 and 117.)

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January 24, 1910. Order of Consolidation. (In causes Nos. 115, 116 and 117.) [32]

ATTACHMENT OF PROPERTY AND PROCEEDINGS THEREUNDER.

December 13, 1909. Monition was issued and delivered to the United States Marshal for the District of Hawaii. Said monition thereafter was returned into court with the following return by the said Marshal:

"In obedience to the within Monition I attached the British ship 'Celtic Chief,' her tackle, etc., cargo now or lately laden on board said ship, including cargo stored on the Inter-Island Steam Navigation Co., Ltd., wharf, and cargo stored in Warehouse No. 9 of Hawaiian Fertilizer Company, Ltd., also freight money, on the 13th day of December, 1909, and have given due notice to all persons claiming the same that this Court will, on the 17th day of December, 1909 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same, by posting a notice of this Monition according to law, for the space of four days in a conspicuous place in the Judiciary Building in the City and County of Honolulu, Territory of Hawaii, and by causing the notice of seizure, information and arrest of the property and time of hearing to be published in the 'Pacific Commercial Advertiser' publications or issues of December 14 and 15, 1909 (a newspaper published in this district, and in which the said publication was made by order of

this Court), prior to the time and place fixed for the hearing.

E. R. HENDRY,
United States Marshal.

By (Sgd.) H. C. Bruns,
Chief Deputy Marshal.

Honolulu, December 17th, 1909.” (In cause No. 115.) [33]

December 15, 1909. Monition was issued and delivered to the United States Marshal for the District of Hawaii. Said monition thereafter was returned into court with the following return by the said Marshal:

“In obedience to the within Monition I attached the British ship ‘Celtic Chief,’ her tackle, etc., cargo now or lately laden on board said ship, including cargo stored on the Inter-Island Steam Navigation Co., Ltd., wharf, and cargo stored in Warehouse No. 9 of Hawaiian Fertilizer Company, Ltd., also freight money, on the 15th day of December, 1909, and have given due notice to all persons claiming the same that this court will, on the 24th day of December, 1909 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same, by posting a notice of this Monition according to law, for the space of four days in a conspicuous place in the Judiciary Building in the City and County of Honolulu, Territory of Hawaii, and by causing the notice of seizure, information and arrest of the property and time of hearing to be published in the Pacific Commercial Advertiser publications or issues of December 16 and 17, 1909 (a newspaper published in this district, and in which the

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said publication was made by order of this Court), prior to the time and place fixed for the hearing.

E. R. HENDRY,

United States Marshal.

By (Sgd.) H. H. HOLT,

Deputy.

Honolulu, December 28th, 1909." (In cause No. 116.) [34]

December 30, 1909. Monition was issued and delivered to the United States Marshal for the District of Hawaii. Said monition thereafter was returned into court with the following return by the said Marshal:

"In obedience to the within Monition I attached the British ship 'Celtic Chief,' her tackle, etc., cargo now or lately laden on board said ship, including cargo stored on the Inter-Island Steam Navigation Co., Ltd., wharf, and cargo stored in Warehouse No. 9 of Hawaiian Fertilizer Company, Ltd., also freight money, on the 30th day of December, 1909, and have given due notice to all persons claiming the same that this court will, on the 7th day of January, 1910 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same, by posting a notice of this Monition according to law, for the space of four days in a conspicuous place in the Judiciary Building in the City and County of Honolulu, Territory of Hawaii.

E. R. HENDRY,

United States Marshal.

By (Sgd.) H. C. Bruns,

Deputy.

Honolulu, December 31, 1909." (In cause No. 117.)

December 17, 1909. Claim filed by John Henry, master of the British ship "Celtic Chief" and bailee of said ship, her cargo and freight money, together with an Admiralty Stipulation and a bond for the release of the said British ship "Celtic Chief," in the sum of Thirty-six Thousand Dollars (\$36,000.00), which amount was fixed by stipulation by the proctors for the said libellant, and notice of the said bonding was given to said Marshal by the clerk of said court. (In cause No. 115.) [35]

December 24, 1909. Claim filed by John Henry, master of the British ship "Celtic Chief" and bailee of said ship, her cargo and freight money, together with an Admiralty Stipulation and a bond for the release of the said British ship "Celtic Chief," in the sum of Twenty-one Thousand Dollars (\$21,000.00), which amount was fixed by stipulation by the proctors for the said libellant, and notice of the said bonding was given to said Marshal by the clerk of said court. (In cause No. 116.)

December 30, 1909. Claim filed by John Henry, master of the British ship "Celtic Chief" and bailee of said ship, her cargo and freight money, together with an Admiralty Stipulation and a bond for the release of the said British ship "Celtic Chief," in the sum of Sixteen Thousand Dollars (\$16,000.00), which amount was fixed by stipulation by the proctors for the said libellant, and notice of the said bonding was

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given to said Marshal by the clerk of said court.
(In cause No. 117.)

TIME WHEN TRIAL WAS HAD.

The above-entitled causes came on regularly for trial in the United States District Court for the Territory of Hawaii, before the Honorable A. G. M. Robertson and the Honorable Charles F. Clemons, Judges of said Court, on the following days, to wit: June 8, 1910; May 20, 22 and 23, 1911; August 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, and 29, 1911; September 6, 7, 8, 11, 15, 18, 19, 20, 21, 22, 25, 26, 27 and 29, 1911; October 16, 17, 18, 20, 23, 27 and 30, 1911; November 1, 2, 3, 6, 7 and 8, 1911; December 18, 20, 21, 22, 28 and 29, 1911; January 4, 1912, and February 16, 1912. [36]

At the trial of said causes the following witnesses were examined *viva voce* and gave their evidence in open court before the said Judges of said court, to wit:

Witnesses called on behalf of Libellants: C. L. Wight, Frank J. Loncke, Wm. Weisbarth, Isaiah Bray, J. A. Kennedy, Tom Mason, Richard K. Clarke, Norman Watkins, Moses Kakai Ekau Make-lena, J. Sato, Capt. F. C. Miller, J. W. Vanatta, George E. Piltz, Y. Oda, John Scott, J. M. Dowsett, J. R. Macaulay, Albert Tullett, Martin Christensen, E. P. Faneuf, R. Nelson, C. H. Strohlin, W. B. Lycett, James Devlin, Frank C. Poor, C. J. Campbell, Norman E. Gedge, George J. Fern, Capt. J. F. Haglund, and A. Lewis, Jr.

Witnesses called on behalf of Libellee: Norman Watkins, John William Smithies, George W. R. King and A. W. Keech.

The following witnesses were not examined in open court, but their depositions were read before the Court:

Depositions of witnesses on behalf of libellant: M. Barrett and J. W. McAllister.

Depositions of witnesses on behalf of libellee: F. M. Connemann, H. Schroeder, John Hughes, W. M. Kellock, Capt. Henry, J. J. Lowry, J. L. Brisco, M. Sorensen, A. Gordon, A. F. Pillsbury, J. Metcalfe and J. C. Eschen.

June 17, 1913. Decision.

June 17, 1913. Decree. (In causes 115, 116 and 117.)

June 26, 1913. Notice of Appeal. (In causes 115, 116 and 117.)

July 14, 1913. Bond on Appeal. (In causes No. 115, 116 and 117.)

October 20, 1913. Amendment to Decree. (In cause No. 117.)

January 8, 1914. Stipulation reducing penalty bond for release of vessel. (In causes No. 115, 116 and 117.)

April 25, 1914. Assignment of Errors. (In causes Nos. 115, 116 and 117.) [37]

Clerk's Certificate to Statement Under Admiralty Rule 4.

United States of America,
District of Hawaii,—ss.

I, A. E. Murphy, Clerk of the United States District Court for the Territory of Hawaii, do hereby certify the foregoing to be a full, true and correct

statement showing the time of commencement of the above-entitled suits; the names of the original parties thereto and those who have become parties, before the appeal; the several dates when the respective pleadings were filed; an account of the proceedings showing attachment of the said vessel and her release under bonds; the time when the trial was had and the name of the Judges hearing the same; the date of entry of the final decrees and the date when the notices of appeal were filed, in the cases of Inter-Island Steam Navigation Company, Limited, an Hawaiian Corporation, Owner of the Steamers "Helene," "Mikahala," "Likelike" and "Mauna Kea," for Itself, the Officers and Crews of said Steamers and Other Servants of said Owners, vs. The British Ship "Celtic Chief," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money, Libellee, and John Henry, Master, Claimant, Number 115, and Miller Salvage Company, Limited, a Corporation, vs. British Ship "Celtic Chief," Her Tackle, Apparel, Furniture, Machinery, Boats, Appurtenances, Cargo and Freight Money, Libellee and John Henry, Master, Claimant, Number 116, and Matson Navigation Company, a California Corporation, Owner of the Tug "Intrepid," for Itself, and the Officers and Crew of said Tug, vs. The British Ship "Celtic Chief," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money, Libellee, and John Henry, Master, Claimant, Number 117, in the United States District Court for the Territory of Hawaii. [38]

In WITNESS WHEREOF, I have hereunto set

my hand and affixed the seal of said District Court this 18th day of May, A. D. 1914.

[Seal]

A. E. MURPHY,

Clerk, United States District Court, Territory of Hawaii. [39]

In the United States District Court for the Territory of Hawaii.

IN ADMIRALTY.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIMITED, an Hawaiian Corporation, Owner of the Steamers "HELENE," "MIKAHALA," "LIKELIKE" and "MAUNA KEA," for Itself, the Officers and Crews of Said Steamers, and Other Servants of Said Owners,

Libelant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money, Respondent.

Libel [in Cause No. 115].

To the Honorable SANFORD B. DOLE, Judge of the United States District Court for the Territory of Hawaii:

The libel of Inter-Island Steam Navigation Company, Limited, a corporation duly organized and existing under and by virtue of the laws of the Territory of Hawaii, owner of the steamer "Helene," whereof R. Nelson is master, the steamer "Mikahala," whereof A. Tullett is master, the steamer

"Likelike," whereof M. Naopala is master, and the steamer "Mauna Kea," whereof W. K. Freeman is master, against the British ship "Celtic Chief," whereof J. Henry is master, now lying at the port of Honolulu, Island of Oahu, Territory of Hawaii and within the admiralty jurisdiction of this court, her tackle, apparel, machinery, boats, furniture, appurtenances and cargo, now or lately laden on board said ship, and including that portion of said cargo of said ship which has been discharged and is now lying, being or stored on the Inter-Island Steam Navigation [40] Company's wharf in said harbor of Honolulu, and also against the freight money of said ship and against all persons lawfully intervening for their interest therein in a cause of salvage civil and maritime, alleges and propounds as follows:

I.

That the libelant Inter-Island Steam Navigation Company, Limited, now is and at all times hereinafter mentioned was a corporation duly organized and existing under and by virtue of the laws of the Territory of Hawaii.

II.

That during all the times herein mentioned the said steamer "Helene" was and now is of the tonnage of 618 tons and had a crew of 31 men besides the master, and said steamer was then and now is staunch and strong, well-manned, tackled and appointed, and well equipped for salvage purposes and of the value of \$125,000.

That the said steamer "Mikahala" during all the times herein mentioned was and now is of the tonnage of 444 tons and had a crew of 35 men besides

the master, and said steamer "Mikahala" was then and now is staunch and strong, well-manned, tackled and appointed, and well equipped for salvage purposes and of the value of \$50,000.

That the said steamer "Likelike" was during all the times herein mentioned and now is of the tonnage of 374 tons and had a crew of 28 men besides the master, and said steamer "Likelike" was then and now is staunch and strong, well-manned, tackled and appointed, and well equipped for salvage purposes and of the value of \$100,000.

That the said steamer "Mauna Kea" was during all the times herein mentioned and now is of the tonnage of 1566 tons and had a crew of 60 men besides the master, and said steamer [41] "Mauna Kea" was then and now is staunch and strong, well-manned, tackled and appointed, and well equipped for salvage purposes and of the value of \$350,000.

III.

That during all the times in this libel mentioned the said British ship "Celtic Chief" was and now is a vessel of the tonnage of 1789 tons and was and now is of the value of \$50,000; and that said ship "Celtic Chief" was laden with a valuable cargo of fertilizer, nitrates and general merchandise destined for the Port of Honolulu, the value of which, together with her freight money is upwards of the sum of \$135,000.

IV.

That during the evening of Sunday, December 5, 1909, while proceeding on a voyage from Hamburg, Germany, to the said Honolulu said ship "Celtic Chief," ran ashore and stranded on a coral reef on the

southern coast of the Island of Oahu, about $\frac{3}{4}$ of a mile westward of the channel entrance to the said Harbor of Honolulu, Island of Oahu.

V.

That hearing of said disaster on Monday, December 6th and at the request of the master of said ship, the libelant promptly proceeded with all dispatch to render assistance to said ship by the aid of its several steamers with their numerous respective crews, her servants skilled in salvage matters, a large gang of stevedores and a donkey-hoist and barge, all as hereinafter set forth and as the occasion from time to time required. That the steamer "Mauna Kea" was sent immediately to the relief of said ship, and on her arrival at the locality of the disaster about 10 A. M. on said December 6th, the said ship "Celtic Chief" was found hard aground on said coral reef as hereinbefore stated in a position of great peril, exposed to the action of the open sea, being wholly unable to extricate herself [42] and in danger of destruction by reason of her position upon the said coral reef. That the said steamer "Mauna Kea" immediately made fast her hawser to said ship "Celtic Chief," and from about said hour of 10 A. M. on December 6th until about the hour of 8 o'clock A. M. on December 7th strained continuously on her said hawser and at all times exerted the power of her engines excepting a short interval after the breaking of her hawser and before the same was again made fast to said ship "Celtic Chief," all at some peril to said steamer "Mauna Kea"; that at about said hour of 8 A. M. on said December 7th the said steamer "Mikahala" being and remaining at that time made

fast by her own hawsers to said ship "Celtic Chief," and the said steamer "Helene" coming out to the scene of the disaster to relieve the said steamer "Mauna Kea," all said steamers being the property of the libelant, the said steamship "Mauna Kea" returned to the Harbor of Honolulu to depart on her delayed scheduled run to various island ports with mail and passengers.

VI.

That the said steamer "Mikahala" left said harbor at 10:40 A. M. on December 6th and arrived at the scene of the disaster at the hour of 10:55 A. M. and made her two hawsers fast to said ship "Celtic Chief" at 11:05 A. M. of said December 6th; that from the said hour of 10:55 A. M. on December 6th until the hour of 12:20 A. M. or thereabouts on December 9th the said steamer "Mikahala" strained continuously on her said hawsers and exerted the power of her engines, and that at the said hour of 12:20 A. M. or thereabouts, the said ship "Celtic Chief" was pulled off said reef and floated into deep water.

VII.

That the said steamer "Helene," having lately arrived at said port of Honolulu, proceeded from said harbor at 6:30 A. M. on December 7th and arrived at the scene of the said disaster [43] at 6:45 A. M.; that said steamer "Helene" made fast to said ship "Celtic Chief" at about 8 A. M. by means of hawsers, transferred to said steamer "Helene" from the said steamer "Mauna Kea," and that from the hours of 8 A. M. on said December 7th and until the hour of 12:20 A. M. or thereabouts on December

9th, excepting two short intervals in order to permit of her hawsers being adjusted, the said steamer "Helene" strained continuously on her said hawsers and exerted the power of her engines, at which time last mentioned the said ship "Celtic Chief" was pulled off said reef. That after said ship was pulled off said reef and floated into deep water the said steamer "Helene" stood by during the remainder of the night and finally returned to the Harbor of Honolulu, arriving at her dock at 7 o'clock A. M. on December 9th.

VIII.

That the said steamer "Likelike" having lately arrived at said port of Honolulu proceeded from said harbor at 11:24 A. M. on December 8th, arrived at the scene of said disaster at 11:36 A. M., and that said steamer "Likelike" made fast to said ship "Celtic Chief" by means of her hawser at about 12 M. and that from about the hour of 12 M. to about the hour of 12:20 A. M. December 9th, at which time said ship "Celtic Chief" was pulled off, said steamer "Likelike" strained continuously on her said hawser and exerted the power of her engines excepting during a short interval consumed in shifting her position; that at the said time said "Celtic Chief" was pulled off said reef the only vessels pulling and straining on their hawsers attached to said ship "Celtic Chief" were the said steamers "Helene," "Mikahala" and "Likelike," and that said steamers "Helene," "Mikahala" and "Likelike" did pull said ship "Celtic Chief" off said reef and did cause her to be floated into deep water; that after said ship "Celtic Chief" was so pulled off said reef and [44]

floated into deep water, the German cruiser "Arcona" towed her out to sea and away from said dangerous shore in a position of safety, and left her. That thereupon the said steamship "Likelike" towed said ship "Celtic Chief" to a safe anchorage off the channel entrance to the Harbor of Honolulu, and stood by the remainder of the night and until 9:30 A. M. on December 9th, when said "Likelike" transferred her hawser to the steamer "Maui," one of the steamers of libelant; that the latter steamer afterwards towed said ship "Celtic Chief" into the said harbor of Honolulu about 11:20 A. M. on said December 9th, where she now lies within the admiralty jurisdiction of this court.

IX.

That all of said steamers and their shore boats, masters and crews, were exposed to some risk and peril during the salvage operations owing to the character of and the close proximity to the said reef, the southerly wind blowing a portion of the time, and the swell which was running during most of the time and the operations of many steamers and lines about said wreck during the day and night.

X.

That beginning with Tuesday the 7th day of December, 1909, and up to the time said ship "Celtic Chief" was pulled off said reef, the said libelant, at the request of the master of said ship and under the supervision of the libelant, discharged a portion of the cargo, to wit, upwards of 400 tons, of the said ship "Celtic Chief," and transferred the same into the said steamers "Mikahala" and "Helene" by means of the shore boats of said steamers; that to

carry on the discharge and transfer of the cargo a large gang of stevedores were employed by the libelant; that in the carrying on of the said discharge and transfer the said stevedores together with the crews of the [45] libelant's steamers worked both night and day; that said work was attended with great difficulty owing to the swell which prevailed during most of the time that these operations were carried on; that said libelant on the 8th day of December procured a barge equipped with a donkey-hoist and anchored the same at the side of said ship "Celtic Chief" in a position of great peril and exposed to great danger of loss, damage or destruction in order to facilitate the work of discharging said cargo and that said barge and hoist together with the necessary men to operate the same were actually utilized in the said work of discharging said cargo until the time that said ship "Celtic Chief" was pulled off said reef.

XI.

That during all the time that said ship "Celtic Chief" was stranded on said reef and until she was finally pulled off said reef as herein set forth, said ship "Celtic Chief" was in a position of imminent peril and was in great danger of having her hull stove in and her perishable cargo of fertilizer, nitrates and general merchandise greatly damaged and destroyed, and was in great danger of being driven further up on said reef and becoming a total wreck and loss; that said ship "Celtic Chief" was exposed to the action of the open sea on the southern coast of the Island of Oahu at the time of the year when destructive southerly weather is prevailing, and had it not been for the efforts of said steamers

"Helene," "Mikahala," "Likelike" and "Mauna Kea" in pulling continuously upon said ship "Celtic Chief" with the exercise of the skill and care on the part of the masters and crews of said steamers "Helene," "Mikahala," "Likelike" and "Mauna Kea" and Captain Haglund and Captain Clark and the services of the other servants of said libelant Inter-Island Steam Navigation Company, Limited, the said ship "Celtic Chief" would have become a total loss. [46]

XII.

That said ship "Celtic Chief" was pulled off said reef and floated into deep water to a place of safety together with her cargo and saved from total loss solely by and through the efforts of said steamers "Helene," "Mikahala," "Likelike" and "Mauna Kea," their respective masters and crews and the other servants of said Inter-Island Steam Navigation Company, Ltd., save and except the assistance rendered by the tug "Intrepid," and also some assistance rendered by the Miller Salvage Company, Limited, and some very slight assistance rendered by the German Cruiser "Arcona."

XIII.

That said services performed by libelant as aforesaid were of a salvage nature and of great value to said ship "Celtic Chief," which, without the aid thereof, would otherwise have become a total loss; that said libelant by reason of said services rendered as aforesaid deserves and is justly entitled to meet and competent salvage as a reward which is usually granted by a court of admiralty in such cases, and that the value of said services is the sum of Thirty-

five Thousand Dollars (\$35,000).

XIV.

That all and singular the premises are true and within the admiralty jurisdiction of this court.

WHEREFORE, libelant prays that process in due form of law according to the course and practice of courts of admiralty and this Honorable Court in cases of admiralty and maritime jurisdiction may issue against the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo and freight money aforesaid, and that all persons having or pretending to have any right, title, claim [47] or interest in said British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid, be cited to appear and answer upon oath all and singular the matters aforesaid, and that this Honorable Court may be pleased to decree a reasonable and proper salvage in proportion to the value of said British ship "Celtic Chief" and her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid, to be due the said libelant as compensation for its salvage services as shall seem to this Honorable Court meet and reasonable, together with its costs and expenses in this behalf; and that said British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid may be condemned and sold to pay said salvage with costs, charges and expenses, and that said libelant may have such further and other relief in the premises as in law and justice it may be entitled to receive.

Dated Honolulu, T. H., December 11th, 1909.

[Corporate Seal]

INTER-ISLAND STEAM NAVIGATION
COMPANY, LIMITED,

By (Sgd.) JAMES A. KENNEDY,
Its President.

United States of America,
Territory of Hawaii,
County of Oahu,—ss.

Now comes James A. Kennedy, and being first duly sworn, upon oath deposes and says:

That he is the President of the Inter-Island Steam Navigation Company, Limited, a corporation, libelant in the within Libel, and is authorized to make this oath and prosecute this suit on behalf of said libelant; that he has acquired a knowledge of the matters and things set forth in said Libel partly from his own observations and partly from Captain J. F. Haglund and from some of the masters of the Inter-Island Steam Navigation Company's steamers named in the within Libel; and that the matters and things therein set forth are true to the best of deponent's knowledge and belief.

(Sgd.) JAMES A. KENNEDY.

Subscribed and sworn to before me this 13th day of December, 1909.

[Seal] (Sgd.) WM. J. FORBES,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [48]

In the United States District Court, for the Territory of Hawaii.

IN ADMIRALTY.

MILLER SALVAGE CO., LTD., a Corporation,
Libelant,

vs.

British Ship "CELTIC CHIEF," Her Tackle, Apparel, Furniture, Machinery, Boats, Appurtenances, Cargo, and Freight Money,
Libelee.

Libel [in Cause No. 116].

To the Honorable S. B. DOLE, Judge of the United States District Court, in and for the District of Hawaii:

The Libel and Complaint of Miller Salvage Company, Limited, a corporation, against the British ship "Celtic Chief," whereof J. Henry is Master, her tackle, apparel, furniture, machinery, boats, and appurtenances, and against her cargo of fertilizer, nitrates, and general merchandise, now and lately laden upon her and including that portion of said cargo of said ship which is now discharged and now lying, being, and stored on the Inter-Island Steam Navigation Company's wharf in said Harbor of Honolulu, and also against her freight money and against all persons lawfully intervening for their interest therein, in a cause of salvage, civil and maritime, alleges as follows:

First: That libelant is and was at all times herein mentioned, a corporation duly organized under the

laws of the Territory of Hawaii for the purpose of salving vessels, among other purposes, and is, and was at all times herein mentioned, the owner of the schooner "Concord," the steamship "James Makee," the launch "Elizabeth," and the motor boat "Mokolii," the lighter "Kaimiloa," which later was had under charter, and also the owner of anchors, cables, ropes, tackle, and other appliances for salvage of vessels and cargo worth upwards of \$50,000, especially fitted and adapted for the purpose of salvage of vessels; that Frederick C. Miller [50] is the manager of said corporation and in charge of the work of salving vessels.

Second: That at all times mentioned in this Libel, said British ship "Celtic Chief" was, and now is, a vessel of 1789 tons and was, and now is, of the value of \$40,000.00, and that said "Celtic Chief" was laden with a valuable cargo of fertilizer, nitrates, and general merchandise, destined for the Port of Honolulu, the value of which, together with her freight money is upwards of \$130,000.00.

Third: That after dark on Sunday, December 5, 1909, and while proceeding to enter the Harbor of Honolulu on her voyage from the Port of Hamburg, Germany, the said ship "Celtic Chief" ran ashore and stranded on the coral reef of the southwest coast of the Island of Oahu, Territory of Hawaii, about one-half mile westward of the channel entrance to the said Port of Honolulu.

Fourth: That on the morning of December 6, 1909, the ship "Celtic Chief" was aground on the coral reef about a half mile to westward of the en-

trance to Honolulu Harbor on the Island of Oahu, in the Territory of Hawaii.

That said Miller went aboard the said ship "Celtic Chief" about eight A. M. of said December 6, 1909, and at the request of the captain of said vessel took steps to send out vessels to take out the cargo.

Fifth: That in order to accomplish such purpose, said Miller sent out the steamship "James Makee," the schooner "Concord," the lighter "Kaimiloa," the motor launch "Elizabeth," and about eighty-six men.

Sixth: That thereafter, during that day and the following night, libelant, by means of said vessels, tackle, and men, unloaded and took ashore about two hundred and thirty-nine tons of the cargo of said vessel of the value of about \$11,000.00. [51]

Seventh: That said cargo was worked with great difficulty for the reason that a heavy swell was running from the southward toward the shore rendering it difficult to keep the salving vessels alongside the "Celtic Chief," and causing great damage to the schooner "Concord," to wit: breaking her windlass and rails; also to the "James Makee" tearing out her bitts and greatly bruising her sides, destroying, using up her tackle, to the damage of libelant of about \$1400.00.

Eighth: That during the 6th day of December, 1909, the "Intrepid," a towboat, had been fast to the said ship part of the time and also the "Mauna Kea" and "Mikahala," and that said vessels were pulling to tow the "Celtic Chief" off the reef, but that the "Celtic Chief" was set further inshore notwithstanding the efforts to pull her off;

That on December 7, said Salvage Company unloaded the S. S. "James Makee" and prepared a large anchor and proper purchase tackle and shipped the same on board the S. S. "James Makee," and stood by the "Celtic Chief" that evening.

Ninth: That on the morning of December 8, 1909, the said Salvage Company placed a large anchor about one thousand feet dead astern of the "Celtic Chief" and thereafter a new three and one-half inch steel hawser was taken therefrom to the "Celtic Chief" and connected to a purchase tackle on the decks in such a manner that the capstan and steam winch could be and were used to haul taut the said cable to the anchor; all arrangements were completed to make a hard pull that day; from about three P. M. to about ten P. M. libelant was hauling taut the anchor tackle; about ten P. M. libelant, by Captain F. C. Miller, began making a hard pull on the anchor tackle.

Tenth: That during said day, December 8, 1909, high water was about one P. M. and four steam vessels were pulling on the said "Celtic Chief" without moving her.

That until the stern hawser was made taut by libelant, the swell was moving the "Celtic Chief" further inshore. [52]

Eleventh: That about ten P. M. and while four steam vessels were fast to the "Celtic Chief" and while the said lines were slack and the said vessel had not been moved by them or any of them from her position, libelant caused the line to the said anchor to be hauled taut by the purchase tackles and

the said vessel began moving toward the mooring, seaward.

That after the "Celtic Chief" had moved seaward about seventy-five feet as a result of libellant's pulling, signals were set on the "Celtic Chief" for the vessels fast to her to begin pulling; that before the lines of the said salving vessels were made taut, through the efforts of the libellant hauling on the mooring line, the "Celtic Chief" was afloat and water-borne.

Twelfth: That then the salving vessels, with some assistance from the German cruiser "Arcona," pulled the "Celtic Chief" from her position of danger near the reef, to a place of safe anchorage.

Thirteenth: That all the said vessels of the libellant with their store, boats, masters, and crews, were exposed to risk and peril during the salvage operations because of the swell running from the sea toward the reef, because of the bumping of the vessels against the said "Celtic Chief," and because there was a southerly wind blowing part of the time, and because of the proximity of the reef and the operation of the said vessels during the night as well as the day.

Fourteenth: That during all the time that the said "Celtic Chief" was stranded on the reef as aforesaid until she was finally pulled off the said reef, as hereinbefore stated, said "Celtic Chief" was in a position of great danger and was in imminent peril of having her hull so injured as to cause her to leak beyond repair by reason of the bumping of her keel upon the coral reef, caused by the swell;

and said vessel was in imminent danger that her cargo of fertilizer, nitrates, and general merchandise be destroyed or damaged by water, and, further, she was in [53] great danger of being driven further upon the reef by the action of the sea upon the southwestern coast of the Island of Oahu at a season when dangerous southerly winds prevailed; and libellant says that because of the exercise of skill and care on the part of the said Frederick C. Miller, its manager, and the men under him, servants of libellant, the said vessel was prevented from going further upon the reef and becoming a total loss.

Fifteenth: That the "Celtic Chief" with the cargo remaining was pulled off the reef and floated in navigable water and saved from total loss solely by and through the efforts of the said Captain Frederick C. Miller, his men, and appliances, save and excepting some assistance rendered by the vessels of the Inter-Island Steam Navigation Company, Limited, and of the German cruiser "Arcona" which pulled the "Celtic Chief" into a place of safety after the libellant had hauled her into deep water; that libellant's tackle was so arranged that if not assisted as aforesaid, libellant would have pulled the "Celtic Chief" into safe water.

Sixteenth: That the services of libellant were of great value resulting in saving the ship from total destruction, and libellant is entitled to be paid a reasonable salvage compensation therefor as a reward which is usually granted by a Court of Admiralty in such cases, and that the value of such services is the sum of \$20,000.00.

Seventeenth: That all and singular, these premises herein are true.

WHEREFORE libelant prays that process in due form of law, according to the law and process of Courts of Admiralty and of this Honorable Court in cases of admiralty and maritime jurisdiction may issue to the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo, and freight money, aforesaid, and that all persons having or to have any right, title, claim or interest in the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, [54] boats, appurtenances, cargo, and freight money, aforesaid, be cited to appear and answer, upon oath, all and singular the matters aforesaid, and that this Honorable Court may be pleased to decree a reasonable and proper salvage in proportion to the value of the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo, and freight money, aforesaid, to be due the said libelant as compensation for its salvage services, as shall seem to this Honorable Court meet and reasonable, together with its costs and expenses in this behalf, and that said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo, and freight money aforesaid, may be condemned and sold to pay said salvage and costs and charges, and expenses, and that the said libelant may have such further and other relief in the premises as in law and justice it may be entitled to receive.

Dated, Honolulu, T. H., December 14th, 1909.

MILLER SALVAGE COMPANY, LIMITED.

By (Sgd.) FREDC. C. MILLER,

Its Manager.

United States of America,

Territory of Hawaii,

City and County of Honolulu,—ss.

Now comes Frederick C. Miller and being first duly sworn, upon oath deposes and says: That he is the manager of the Miller Salvage Company, Limited, a corporation, libelant in the Libel above set forth, and is authorized to make oath and prosecute this suit on behalf of the said libelant; that he has acquired a knowledge of the matters and things set forth in the said Libel by his own observations, and that the matters and things therein set forth are true to the best of deponent's knowledge and belief.

(Sgd.) FREDC. C. MILLER.

Subscribed and sworn to before me this 14th day of December, 1909.

[Seal]

(Sgd.) S. DE FREEST,

Notary Public, First Judicial Circuit, Territory of Hawaii. [55]

*In the United States District Court for the Territory
of Hawaii.*

IN ADMIRALTY.

MATSON NAVIGATION COMPANY, a California
Corporation, Owner of the Tug "IN-
TREPID," for Itself, and the Officers and
Crew of Said Tug,

Libelant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle,
Apparel, Machinery, Boats, Furniture, Ap-
purtenances, Cargo and Freight Money,
Respondent.

Libel [in Cause No. 117].

To the Honorable SANFORD B. DOLE, Judge of
the United States District Court for the Terri-
tory of Hawaii:

The libel of Matson Navigation Company, a Cali-
fornia corporation duly organized and existing under
and by virtue of the laws of the State of California,
owner of the tug "Intrepid," whereof John W. Mc-
Allister is master, against the British ship "Celtic
Chief," whereof J. Henry is master, now lying at the
port of Honolulu, Island of Oahu, Territory of
Hawaii, and within the admiralty jurisdiction of this
Court, her tackle, apparel, machinery, boats, furni-
ture, appurtenances, and cargo, now or lately laden
on board said ship, and including that portion of said
cargo of said ship which has been discharged and is
now lying, being or stored on the Inter-Island Steam
Navigation Company's wharf in said harbor of

Honolulu, and also in Hawaiian Fertilizer Company, Limited's Warehouse No. 9 at Iwilei, Honolulu, and also against the freight money of said ship and against all persons lawfully intervening for their interest therein in a cause of salvage civil and maritime, alleges and propounds as follows: [81]

I.

That Matson Navigation Company now is and at all the times hereinafter mentioned was a corporation duly organized and existing under and by virtue of the laws of the State of California and authorized to carry on business under the laws of the Territory of Hawaii.

II.

That during all the times herein mentioned said tug "Intrepid" was and now is of the tonnage of 123 tons and had a crew of 8 men besides the master, and said tug was then and now is staunch and strong, well manned, tackled and appointed, and well equipped for salvage purposes, and of the value of \$35,000, and during said times was and now is maintained in the harbor of said Honolulu; that one of the principal purposes of said maintenance of said tug in said harbor is that of rendering assistance to and salving vessels in distress in and about the waters of and immediately surrounding the Territory of Hawaii.

III.

That during all the times in this libel mentioned the said British ship "Celtic Chief" was and now is a vessel of the tonnage of 1789 tons and was and now is of the value of \$50,000; and that said ship "Celtic Chief" was laden with a valuable cargo of fertilizer,

nitrate and general merchandise destined for the port of Honolulu, the value of which, together with her freight money is upwards of the sum of \$135,000.

IV.

That during the evening of Sunday, December 5, 1909, while proceeding on a voyage from Hamburg, Germany, to the said Honolulu, said ship "Celtic Chief" ran ashore and stranded on a coral reef on the southern coast of the Island of Oahu, about $\frac{3}{4}$ of a mile westward of the channel entrance to the said harbor of Honolulu, Island of Oahu. [82]

V.

That said tug "Intrepid" on the morning of Monday, December 6th, between the hours of 6 and 7, while proceeding out of the harbor of Honolulu, found the said ship "Celtic Chief" hard aground as hereinbefore stated in a position of great peril, exposed to the action of the open sea, being wholly unable to extricate herself and in danger of destruction by reason of her position on said coral reef; that the said tug "Intrepid" with all dispatch, and at the request of the master of said ship "Celtic Chief," immediately made fast her hawser to said ship "Celtic Chief," and from about the hour of 7:15 A. M. of said December 6th until about the hour of 12:20 P. M. of December 8th strained continuously on her said hawser and at all times exerted the power of her engines; that at said hour of 12:20 P. M. of said December 8th, the hawser of the said tug "Intrepid" was cut on board said ship "Celtic Chief" and cast off said ship "Celtic Chief" by the master of said "Celtic Chief"; that the *mast* of the tug "Intrepid" departed immediately for the harbor of Honolulu,

obtained a part of a wire hawser and returned immediately to the scene of the disaster and again offered his hawser to the master of the said ship "Celtic Chief," but the same was refused by the master of the said ship "Celtic Chief"; that although said hawser was so refused by said master of said ship "Celtic Chief," the master of the tug "Intrepid" informed the master of the "Celtic Chief" that he, the said master of the tug "Intrepid" would remain within hailing distance of said ship "Celtic Chief" and stand by ready and willing to render and perform any service or assistance as occasion required, and that thereupon said tug "Intrepid," while not interfering in any manner with the salvage operations which were being carried on, did remain within hailing distance of said ship "Celtic Chief" and stood by ready, able and willing to render assistance until [83] 10 o'clock A. M., of December 9th, at which time the said ship "Celtic Chief" being at anchor afloat in deep water in the customary anchorage ground off the harbor of Honolulu, and being advised that no assistance would be required of the tug "Intrepid," departed for the harbor of Honolulu.

VI.

That the said tug "Intrepid" was the first salvor to render salvage services to said ship "Celtic Chief"; that at the time said hawser of said tug "Intrepid" was so cut and cast off said "Celtic Chief" by the master of said "Celtic Chief" as aforesaid, the said tug "Intrepid" was able, ready and willing to continue to render assistance to the said ship "Celtic Chief," and that there was fair prospect of a successful salving of said ship "Celtic

Chief" at the time said tug "Intrepid" was dismissed by said master of said "Celtic Chief," and that the said tug "Intrepid" could and would have performed greater and more efficient service than was afterwards performed by the German Cruiser "Arcona," which by the orders of the master of said ship "Celtic Chief" displaced the said tug "Intrepid" in the performance of her services upon the said ship "Celtic Chief."

VII.

That the said tug "Intrepid" and its equipment, master and crew, were exposed to some risk and peril during the salvage operations owing to the character of and the close proximity to the said reef, the southerly wind blowing a portion of the time, and the swell which was running during most of the time and the operations of many steamers and lines about said wreck during the day and night.

VIII.

That during all the time that said ship "Celtic Chief" was stranded on said reef and until she was finally pulled off said reef as herein set forth, said ship "Celtic Chief" was in a position of imminent peril and was in great danger of having her hull stove in and her perishable cargo of fertilizer, nitrates and [84] general merchandise greatly damaged and destroyed and was in great danger of being driven further up on said reef and becoming a total wreck and loss; that said ship "Celtic Chief" was exposed to the action of the open sea on the southern coast of the Island of Oahu at the time of the year when destructive southerly weather is prevailing, and had it not been for the efforts of the said tug

"Intrepid" together with the steamers "Helene," "Mikahala," "Likelike" and "Mauna Kea" in pulling continuously upon said ship "Celtic Chief" with the exercise of the skill and care on the part of the masters and crews of the tug "Intrepid" and the steamers of the Inter-Island Steam Navigation Company, Limited, and the services of the other servants of the Inter-Island Steam Navigation Company, Limited, the said ship "Celtic Chief" would have become a total loss.

IX.

That said ship "Celtic Chief" was pulled off said reef and floated into deep water to a place of safety together with her cargo, and saved from total loss solely by and through the efforts of the tug "Intrepid," her master and crew, together with the assistance rendered by the steamers "Helene," "Mikahala," "Likelike" and "Mauna Kea," their respective masters and crews and the other servants of said Inter-Island Steam Navigation Company, Limited, and also some assistance rendered by the Miller Salvage Company, Limited, and some very slight assistance rendered by the German Cruiser "Arcona."

X.

That said services performed by libellant as aforesaid were of a salvage nature and of great value to said ship "Celtic Chief," which, without the aid thereof, would otherwise have become a total loss; that said libellant by reason of said services rendered as aforesaid deserves and is justly entitled to meet any competent salvage as a reward which is usually granted by a court of admiralty in such cases, and that the value of said services is the sum of

XI.

That all and singular the premises are true and within the admiralty jurisdiction of this court.

WHEREFORE, libelant prays that process in due form of law according to the course and practice of courts of admiralty and this Honorable Court in cases of admiralty and maritime jurisdiction may issue against the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo and freight money aforesaid, and that all persons having or pretending to have any right title, claim, or interest in said British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid be cited to appear and answer upon oath all and singular the matters aforesaid, and that this Honorable Court may be pleased to decree a reasonable and proper salvage in proportion to the value of said British ship "Celtic Chief," and her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid, to be due the said libelant as compensation for its salvage services as shall seem to this Honorable Court meet and reasonable together with its costs and expenses in this behalf; and that said British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid may be condemned and sold to pay said salvage with costs charges and expenses, and that said libelant may have such further and other relief in the premises as in law and justice it may be entitled to receive.

Dated, Honolulu, T. H., December 30th, 1909.

MATSON NAVIGATION COMPANY,

By Its Agent,

CASTLE & COOKE, LIMITED,

By (Sgd.) E. D. TENNEY,

Its Vice-President.

(Sgd.) SMITH & LEWIS,

Proctors for Libellant. [86]

United States of America,
Territory of Hawaii,
County of Oahu,—ss.

Now comes E. D. Tenney, and being first duly sworn, upon oath deposes and says:

That he is the Vice-president of Castle & Cooke, Limited, the agent of the Matson Navigation Company, a corporation, the libellant named in the within libel, and is duly authorized to sign the foregoing libel and to make this verification on its behalf; that none of the officers of said corporation libellant are within the Territory of Hawaii, and that for that reason deponent makes this verification on its behalf; that he is acquainted with the facts of this case and that he has acquired a knowledge of the matters and things set forth in said Libel from John W. McAllister, the master of the tug "Intrepid" named in the within Libel, and that the matters and things therein set forth are true to the best of deponent's knowledge and belief.

(Sgd.) E. D. TENNEY.

Subscribed and sworn to before me this 30th day of December, 1909.

[Seal]

(Sgd.) A. K. F. YAP,

Notary Public, First Judicial Circuit, Territory of Hawaii. [87]

[Title of Court and Cause—No. 115.]

Claimant's Answer [in Cause No. 115].

To the Honorable SANFORD B. DOLE, Judge of
the United States District Court in and for the
Territory of Hawaii:

The answer of John Henry, master and claimant, to the libel of Inter-Island Steam Navigation Company, Limited, a corporation, the libellant in the above-entitled cause, against the British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money, the respondent in said cause, and against all persons lawfully intervening for their interests therein in a cause of salvage, civil and maritime, alleges: [104]

1. Answering the first article in the said Libel, this claimant admits that the said libellant now is, and at all times mentioned in the said Libel was, a corporation organized and existing under and by virtue of the laws of the Territory of Hawaii.

2. Answering the second article in said Libel, this claimant alleges that he is ignorant of all the matters and things in said second article alleged, so that he can neither admit nor deny the same; wherefore on that account he calls for strict proof thereof.

3. Answering the third article in said Libel, this claimant admits that the said British ship "Celtic Chief" was and now is a vessel of the tonnage of 1789 tons gross; but denies that the said ship was or now is of the value of \$50,000; this claimant admits that the said ship was laden with a cargo of fertilizer, and general merchandise destined for the port of Honolulu; but denies that the value of said cargo together

with the freight money of the said ship was or is the sum of \$135,000.

4. Answering the fourth article in said Libel, this claimant admits all of the matters and things in said fourth article alleged except the date of stranding, as to which this claimant denies that said stranding occurred on the 5th day of December, 1909, and alleges that the said stranding occurred at about 2:30 A. M. of the 6th day of December, 1909; and further answering said fourth article, this claimant alleges that the coral reef upon which the said ship stranded as aforeaid was sandy and comparatively soft.

5. Answering the *fifty* article in said Libel, this claimant [105] denies that he requested the said libellant to send its vessels, steamers, crews, servants, donkey-hoist and barge, or stevedores to his assistance or the assistance of the said ship, and alleges that when the said libellant offered its services, this claimant consented to the rendition by the libellant of such services as it might be able to give; this claimant denies that the steamer "Mauna Kea" suffered any risk or encountered any peril whatsoever during any of the times mentioned in said fifth article, and alleges that at all said times the said steamer was perfectly safe and free from all risk, danger and peril; this claimant is ignorant as to the exact times alleged in said fifth article, so that he can neither admit nor deny the same, wherefore on that account he calls for proof of the allegations thereof in said fifth article contained; this claimant admits that upon the arrival of the said steamer "Mauna Kea," the said "Celtic Chief" was hard aground on said coral reef; but denies that she was in a position of great peril, or that

she was in any danger of destruction, and alleges that the said ship was occupying an easy position or bed in the soft coral of the said reef without danger of any considerable injury to herself or her cargo, within easy reach of ample assistance for the purpose of removing her from the said reef to a place of safety; this claimant denies that the said steamer "Mauna Kea" strained continuously on her hawser or that she at all times exerted the power of her engines as in said fifth article alleged; as to all other matters and things in said fifth article alleged, this claimant is ignorant thereof so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof. [106]

6. Answering the sixth article in said Libel, this claimant is ignorant as to the exact times in said sixth article alleged, so that he can neither admit nor deny the same; wherefore on that account he calls for proof thereof; this claimant admits that the steamer "Mikahala" while pulling on the said "Celtic Chief" had two hawsers made fast to the said "Celtic Chief"; this claimant denies that the said steamer "Mikahala" strained continuously on her said hawser or exerted the power of her engines as in said sixth article alleged, and denies that the said "Celtic Chief" was pulled off said reef and floated into deep water at the hour of 12:20 A. M. on the 9th day of December, 1909, and alleges that the said "Celtic Chief" was pulled off said reef and floated into deep water at about the hour of 12 midnight of the evening of December 8th, 1909; this claimant is ignorant as to all other matters in said sixth article alleged, so that he can neither admit nor deny the same; wherefore

on that account he calls for proof thereof;

7. Answering the seventh article in said Libel, this claimant is ignorant of the exact times in said seventh article alleged, so that he can neither admit nor deny the same; wherefore on that account he calls for proof thereof; this claimant denies that the steamer "Helene" strained continuously on her hawsers or exerted the power of her engines as in said seventh article alleged or that the said "Celtic Chief" was pulled off said reef and floated into deep water of 12:20 A. M. on December 9, 1909, and alleges that said "Celtic Chief" was pulled off said reef and floated into deep water at about 12 midnight of the evening of December 8, 1909; as to all other matters and things in said seventh article alleged, this claimant is ignorant, so that he [107] can neither admit nor deny the same; wherefore on that account, he calls for proof thereof.

8. Answering the eighth article in said Libel, this claimant is ignorant of the exact times in said eighth article alleged, so that he can neither admit nor deny the same; wherefore on that account, he calls for proof thereof; this claimant denies that the steamer "Likelike" strained continuously on her hawsers or exerted the power of her engines as in said eighth article alleged and denies that the said "Celtic Chief" was pulled off said reef at 12:20 A. M. of December 9th, 1909, and alleges that she was pulled off at about 12 midnight of December 8th, 1909; this claimant denies that the only vessels pulling and straining on their hawsers attached to said "Celtic Chief" were the said steamers "Helene," "Mikahala" and "Likelike," and denies that the said three last-mentioned

steamers or any of them pulled the said "Celtic Chief" off said reef or caused her to be floated into deep water; this claimant admits that the German cruiser "Arcona" towed the said "Celtic Chief" out to sea and away from the said reef to deep water, when said "Celtic Chief" came off the said reef, and then left her after said "Celtic Chief" had reached a place of safety; this claimant admits that the "Likelike" towed said "Celtic Chief" to an anchorage, and that on the morning of December 9th, 1909, the steamer "Maui" towed said "Celtic Chief" into the harbor of Honolulu, where she now lies; this claimant alleges that the said towage by the said "Likelike" and "Maui" were ordinary towage services only performed after arrangement therefor between this claimant and said libellant, and that therefore for said services said libellant is not entitled to any extraordinary or salvage award; as to all other matters and things alleged in said eighth article, this claimant is [108] ignorant so that he can neither admit nor deny the same, wherefore on that account, he calls for proof thereof.

9. Answering the ninth article of said Libel, this claimant denies that any of the said steamers or their shore boats, masters or crews, were exposed to any risk or peril during the operations in said Libel mentioned.

10. Answering the tenth article in said Libel, this claimant admits that some portion of the cargo of said "Celtic Chief" was transferred by the libellant from the said "Celtic Chief" to the said "Mikahala" and "Helene," but alleges that he is ignorant as to the exact quantity of the cargo so transferred, so that

he can neither admit nor deny the allegations as to such quantity in said tenth article, wherefore on that account, he calls for proof thereof; this claimant is ignorant as to the allegations of the employment by the libellant of a gang of stevedores in the said transfer of cargo, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof; this claimant denies that the libellant by means of stevedores or the crews of its said steamers worked continuously both day and night in the carrying on of the discharge and transfer of said cargo or that said work was attended with any other than ordinary difficulty; this claimant admits that a **donkey**-hoist and barge were anchored by the side of the said "Celtic Chief" and used in the said work of discharging and transferring said cargo, but this claimant denies that the said donkey-hoist or barge were exposed to any danger of loss, damage or destruction or that they were in a position of any peril.

11. Answering the 11th article in said Libel, this claimant denies that the said "Celtic Chief" while stranded on said reef was in a position of imminent peril or in danger of having her [109] hull stove in or her cargo being greatly damaged or destroyed or that said "Celtic Chief" was in danger of becoming a total wreck or loss; or that had it not been for the effort of said steamers "Helene," "Mikahala," "Likelike" and "Mauna Kea" or any of them in pulling upon said "Celtic Chief" with the exercise of skill and care on the part of their masters and crew and Captain Haglund and Captain Clark and the services of the other servants of said libellant, the said "Celtic Chief" would have become a total loss; this

claimant alleges that the said "Celtic Chief" lay in soft coral on the said reef and that during the whole time while she lay stranded, the weather was fine and the sea smooth, and that both the said "Celtic Chief" and her cargo could have been saved without the services of the said libellant; this claimant denies that the said steamers of the said libellant or any of them pulled continuously upon the said "Celtic Chief."

12. Answering the twelfth article in the said Libel, this claimant denies that the said "Celtic Chief" or her cargo were saved from total loss by or through the efforts of the steamers of the said libellant, their respective masters and crews and its other servants, either solely or together with the said tug "Intrepid" or the said Miller Salvage Co., Ltd., or the said German cruiser "Arcona," or together with all of them; and this claimant alleges that the said "Celtic Chief" and her cargo were in no danger of total loss, that the said libellant contributed but slight assistance to the said "Celtic Chief" and her cargo and that the said German cruiser "Arcona" was the chief agent in pulling the said "Celtic Chief" off the said reef, aided to some extent by the said Miller Salvage Co., Ltd.; this claimant [110] denies that the said tug "Intrepid" was of any service whatsoever at any time to the said "Celtic Chief" or her cargo.

13. Answering the 13th article in said Libel, this claimant admits that the libellant performed some services of a salvage nature, and that to the said libellant and its servants and employees something is due for services rendered; but this claimant denies that without the aid thereof the said "Celtic Chief" would have become a total loss, and denies that the

value of the said services is worth the sum of \$35,000; that this claimant affirms and alleges that the said sum of \$35,000 claimed by the said libellant is grossly excessive and exorbitant.

14. And further answering the said Libel, this claimant alleges that the said "Celtic Chief" was pulled off the said reef principally by the German cruiser "Arcona," a vessel of great size and having a horse-power of 8,200 units and equipped with large and powerful anchors; that at the time the said "Celtic Chief" came off the said reef the said cruiser was exerting a powerful strain upon two powerful wire hawsers attached to the said "Celtic Chief," which together with the power exerted by means of an anchor supplied by said Miller Salvage Co., Ltd., and the action of the incoming tide loosened the said "Celtic Chief" in her bed in the said coral reef and enabled the said cruiser by her own power alone to pull the said "Celtic Chief" into deep water and a place of safety; that at the time the said "Celtic Chief" came off the said reef, the steamers of the said libellant were exerting little or no strain upon their hawsers attached to the said "Celtic Chief" and that the said libellant contributed very slightly to the floating of the said "Celtic Chief"; this claimant alleges that until the said German cruiser attached its hawsers to the said "Celtic Chief" and the said Miller Salvage Co., Ltd., placed its anchor [111] and attached its line to the said "Celtic Chief," the said libellant was unable to prevent the said "Celtic Chief" from going further ashore.

WHEREFORE this claimant prays that the said Libel may be dismissed and that he may have his costs herein.

Dated January 11, 1910.

(Sgd.) JOHN HENRY,
Claimant.

(Sgd.) HOLMES, STANLEY & OLSON,
Proctors for Claimant.

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

John Henry, being first duly sworn, on oath deposes and says: That he is the master of the British ship "Celtic Chief" and bailee of said ship and her cargo and freight money and the claimant herein; that he has read the foregoing answer and knows the contents thereof, and that the same is true to the best of his knowledge, information and belief; that he makes this verification from personal knowledge, as well as from information received from his officers, the members of his crew and others engaged in said salvage operations.

(Sgd.) JOHN HENRY.

Subscribed and sworn to before me this 11th day of January, 1910.

[Seal] (Sgd.) P. H. BURNETTE,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [112]

[Endorsed]: No. 115. Claimant's Answer. Filed
Jan. 11, 1910. [113]

[Title of Court and Cause—No. 116.]

Claimant's Answer [in Cause No. 116].

To the Honorable SANFORD B. DOLE, Judge of
the United States District Court in and for the
Territory of Hawaii:

The answer of John Henry, master and claimant, to the Libel of Miller Salvage Co., Ltd., a corporation, the libellant in the above-entitled cause, against the British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money, the libellee in said cause, and against all persons lawfully intervening for their interests therein in a cause of salvage, civil and maritime, alleges:

1. Answering the first article in said Libel, this claimant admits that the said libellant is a corporation organized under the laws of the Territory of Hawaii, but alleges that he is ignorant of all other the matters and things in said article alleged, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof. [114]

2. Answering the second article in said Libel, this claimant admits that the said British ship "Celtic Chief" was and now is a vessel of the tonnage of 1,789 tons gross; but denies that the said ship was or now is of the value of \$40,000; this claimant admits that the said ship was laden with a cargo of fertilizer and general merchandise destined for the port of Honolulu; but denies that the value of the said cargo, together with the freight money of the said ship is the sum of \$130,000.

3. Answering the third article in said Libel, this

64 *The British Ship "Celtic Chief" et al. vs.*

claimant admits that the said British ship "Celtic Chief" ran ashore and stranded as in said third article alleged except as to the date of said stranding, and alleges that the said stranding occurred not on Sunday, December 5th, 1909, but at about 2:30 A. M. of the 6th day of December, 1909; and further answering said third article, this claimant alleges that the coral reef upon which the said ship stranded as aforesaid was sandy and comparatively soft.

4. Answering the fourth article in said Libel, this claimant admits the allegations in the first paragraph of said fourth article, and admits that on the morning of December 6, 1909, said Miller came aboard said "Celtic Chief" and offered to send out vessels to take out cargo from said "Celtic Chief"; and this claimant further alleges that at the same time Miller stated to this claimant that he, said Miller, had a large anchorage which could be used to advantage in assisting the said "Celtic Chief" and stated that he would forthwith bring the same to the said "Celtic Chief" for the purpose of assisting her, but that the said libellant and said Miller failed to bring the said anchor to the assistance of the said ship until the morning of the 8th of December, 1909, two days after the said Miller had agreed to bring the same to the assistance of the said ship. [115]

5. Answering the fifth article of the said Libel, this claimant is ignorant of the matters and things in said fifth article alleged, so that he can neither admit nor deny the same, wherefore he calls for proof thereof.

6. Answering the sixth article in the said Libel, this claimant admits that the libellant unloaded and

took ashore about 239 tons of the cargo of said vessel, but alleges that he is ignorant as to whether or not the cargo so taken ashore was of the value in said sixth article alleged, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof.

7. Answering the seventh article in said Libel, this claimant denies that the said cargo taken ashore as aforesaid was worked with great or any except ordinary difficulty, and denies that there was a heavy swell running during the operations by which the said cargo was taken ashore; this claimant is ignorant as to the other matters and things in said article seventh alleged, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof.

8. Answering the eighth article in said libel, this claimant admits the allegations in the first paragraph of said eighth article; this claimant alleges that he is ignorant as to the remaining allegations in said eighth article, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof.

9. Answering the ninth article in said Libel, this claimant admits that on the morning of December 8th, 1909, the libellant placed a large anchor about 1,000 feet dead astern of the said [116] "Celtic Chief" and that a steel hawser was taken therefrom to the said "Celtic Chief"; this claimant denies that the said hawser was a new one; that claimant is ignorant whether or not the said hawser was a 3½ inch hawser, and therefore can neither admit nor deny the same, wherefore on that account he calls for

proof thereof; this claimant admits that the said hawser was connected to purchase tackle on the decks in such manner that the capstan and steam winch could be used to haul taut the said hawser, and alleges that the tackle so used belonged in part to the said "Celtic Chief" and that the said steam winch belonged to the said "Celtic Chief" and was the only power other than the hand capstan of the ship used for the purpose of placing a strain on the said hawser; this claimant admits that about 10 P. M. of said December 8th, 1909, a hard strain was placed on the said hawser; and this claimant further alleges that but for the said steam winch and other appliances belonging to the said "Celtic Chief" the said libellant would have been unable to exert the strain exerted on the said hawser attached to the said anchor.

10. Answering the tenth article in said Libel, this claimant admits the allegations therein contained, but alleges that at the time the said hawser attached to the said anchor was made taut, the German cruiser "Arcona," a powerful vessel having 8,200 horsepower, had placed two wire hawsers aboard said "Celtic Chief" and with powerful anchors placed ahead was exerting a powerful strain upon the said hawsers, and it was due in large measure to the assistance so given by the said cruiser that the said "Celtic Chief" was prevented from going farther in shore.

11. Answering the eleventh article in said Libel, this claimant denies that the libellant was the sole cause of the floating of the said "Celtic Chief," and denies that the said "Celtic Chief" [117] was moved seaward until shortly before 12 o'clock mid-

night of the evening of December 8th, 1909; and this claimant alleges that at the time the said "Celtic Chief" first began to move seaward, the said German cruiser was exerting a powerful strain upon the said hawsers placed by her upon the said "Celtic Chief" and that the "Celtic Chief" was moved in large measure and principally by the power so exerted by the said cruiser, and not, except in lesser degree, by the said libellant; this claimant further alleges that the said "Celtic Chief" was finally floated by the said German cruiser.

12. Answering the twelfth article in said libel, this claimant alleges that the said cruiser was the chief agent in pulling the said "Celtic Chief" from the said reef to deep water and a place of safety.

13. Answering the thirteenth article in said Libel, this claimant denies that the vessels of the libellant with their store, boats, masters and crews, or any of them or any part thereof, were exposed to any risk or peril during the said salvage operations; and alleges that the said operations were carried on without danger and with safety to all agencies and persons therein engaged.

14. Answering the fourteenth article in said Libel, this claimant denies that the said "Celtic Chief" was in a position of great danger or was in imminent peril as in said fourteenth article alleged, and denies that her cargo was in great danger; and denies that the said vessel was prevented from becoming a total loss by the said libellant or its manager or servants.

15. Answering the fifteenth article in said Libel, this claimant denies that the said "Celtic Chief"

with the cargo remaining in her was pulled off the reef and floated or saved from total loss solely by or through the efforts of said Miller, his [118] men and appliances, save and excepting some assistance rendered by the vessels of the Inter-Island Steam Navigation Company, Limited, and slight assistance of the said cruiser; and denies that the libellant could or would have pulled the said "Celtic Chief" off the said reef or into safe water without the assistance of the said cruiser.

16. Answering the sixteenth article in said Libel, this claimant denies that the libellant's services were of great value in saving the said "Celtic Chief" from total destruction and denies that the said "Celtic Chief" was in danger of total destruction; this claimant admits that the libellant performed some services of a salvage nature, and that to the said libellant something is due for services rendered; but this claimant denies that the value of the said services is the sum of \$20,000 and affirms and alleges that the said sum of \$20,000 claimed by the said libellant is grossly excessive and exorbitant.

17. And further answering the said Libel, this claimant alleges that the said "Celtic Chief" with her cargo was pulled off the said reef principally through the efforts of the said cruiser; that at the time the said "Celtic Chief" first began to move seaward and at the time that she came off the said reef, the said cruiser was exerting a powerful strain upon two powerful wire hawsers attached to the said "Celtic Chief," and thus furnish the chief agency which resulted in floating the said "Celtic Chief," and that together with the action of the incoming tide, the said

“Celtic Chief” was so loosened in her bed in the said coral reef, the said cruiser with the lesser assistance of the libellant was able to float the said ship; this claimant further alleges that during the whole time while the said ship was stranded as aforesaid, the weather was fine and the sea [119] smooth, and the said “Celtic Chief” and her cargo were in little peril; and this claimant further alleges that at no time were the libellant’s vessels, appliances or servants or employees in any danger or subject to any risk.

WHEREFORE this claimant prays that the said Libel may be dismissed and that he may have his costs herein.

Dated January 11th, 1910.

(Sgd.) JOHN HENRY,
Claimant.

(Sgd.) HOLMES, STANLEY & OLSON,
Proctors for Claimant.

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

John Henry, being first duly sworn, on oath deposes and says:

That he is the master of the British Ship “Celtic Chief” and bailee of said ship and her cargo and freight money, and the claimant herein; that he has read the foregoing answer and knows the contents thereof, and that the same is true to the best of his knowledge, information and belief; that he makes this verification from personal knowledge as well as from information received from his officers, the mem-

bers of his crew and others engaged in said salvage operations.

(Sgd.) JOHN HENRY.

Subscribed and sworn to before me this 11th day of January, 1910.

[Seal] (Sgd.) P. H. BURNETT,
Notary Public First Judicial Circuit, Territory of
Hawaii.

[Endorsed]: No. 116. Claimant's Answer. Filed
Jan. 11, 1910. [120]

[Title of Court and Cause—No. 117.]

Claimant's Answer [in Cause No. 117].

To the Honorable SANFORD B. DOLE, Judge of
the United States District Court, in and for the
Territory of Hawaii:

The Answer of John Henry, master and claimant,
to the Libel of Matson Navigation Company, a Cali-
fornia corporation, the libellant in the above-entitled
cause, against the British ship "Celtic Chief," her
tackle, apparel, furniture, machinery, boats, appur-
tenances, cargo and freight money, the respondent
in said cause, and against all persons lawfully inter-
vening for their interests therein in a cause of sal-
vage, civil and maritime, alleges:

1. Answering the first article in said Libel, this
claimant is ignorant of the matters and things alleged
in said first article, so that he can neither admit nor
deny the same, wherefore on that account he calls for
proof thereof. [121]

2. Answering the second article in said Libel, this

claimant is ignorant of the matters and things alleged in said second article, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof.

3. Answering the third article in said Libel, this claimant admits that the said British ship "Celtic Chief" was and now is a vessel of the gross tonnage of 1789 tons, but denies that the said ship was or now is of the value of \$50,000.00; this claimant admits that the said ship was laden with a cargo of fertilizer and general merchandise destined for the port of Honolulu, but denies that the value of said cargo together with the freight money of the said ship was or is the sum of \$135,000.00.

4. Answering the fourth article in said Libel, this claimant admits all the matters and things in said fourth article alleged except the date of stranding, as to which this claimant denies that said stranding occurred on the 5th day of December, 1909, and alleges that the said stranding occurred at about 2:30 o'clock A. M., of the 6th day of December, 1909; and further answering said fourth article, this claimant alleges that the coral reef upon which said ship stranded as aforesaid was sandy and comparatively soft.

5. Answering the fifth article in said Libel, this claimant admits that the tug "Intrepid" appeared near the place of said stranding about seven o'clock A. M., on the 6th day of December, 1909, but denies that the said tug found the said "Celtic Chief" to be, or that the said "Celtic Chief" was in a position of great peril or in danger of destruction by reason of her position on said coral reef; this claimant admits

that the said tug with this claimant's consent made fast her hawser to said "Celtic Chief" and that said [122] hawser continued fast to said "Celtic Chief" until about noon on December 8th, 1909; this claimant denies that the said tug strained continuously on her said hawser or that she exerted the power of her engines as in said libel alleged; this claimant admits that at about noon on December 8th, 1909, the hawser of the said tug "Intrepid" was cut on board of said "Celtic Chief" and cast off said "Celtic Chief" by this claimant; this claimant denies that the said tug thereafter at any time offered his or any hawser to this claimant or to the said "Celtic Chief"; this claimant admits that the master of the said tug informed this claimant that the said tug would remain near by ready and willing to give assistance; this claimant is ignorant as to whether or not the said tug stood by within hailing distance of the said "Celtic Chief" or stood by ready or willing to render assistance until ten o'clock A. M. of December 9th, 1909, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof; this claimant denies that the said tug was able to render any assistance to the said "Celtic Chief" after the time that the said tug's hawser was cut as aforesaid; and further answering this claimant alleges that the said tug from the time that it placed its line aboard the said "Celtic Chief" until the said line was cut as aforesaid rendered no assistance whatever to the said "Celtic Chief," and that its efforts were useless and had no tendency to assist the said "Celtic Chief" either in preventing her from going further ashore or in pulling her off the said reef; that prior

to the time of the cutting of the said hawser, the German cruiser "Arcona," a powerful vessel having 8,200 horse-power and equipped with powerful anchors and appliances, [123] had offered its services to the said "Celtic Chief" provided that it be given the position held by the said tug; that with the assistance at hand and operating, it was evident that the said "Celtic Chief" would not be pulled off the said reef, but that with the aid of a powerful vessel such as the said cruiser and so equipped, that the said "Celtic Chief" could in all probability be pulled off the said reef; that this claimant several times requested the Master of the said tug to yield its position to the said cruiser, which the said master of the said tug refused to do, and finally this claimant warned the said master of the said tug that unless the said tug would yield its position to the said cruiser, this claimant would cut the said tug's hawser; that the said master of the said tug still refusing to yield his position as aforesaid, this claimant did cut the said hawser in order to enable the said cruiser to render assistance to the said "Celtic Chief," without which the said "Celtic Chief" would have been deprived of the powerful assistance of the said cruiser, the chief factor and agency in thereafter pulling the said "Celtic Chief" off the said reef; and further answering this claimant alleges that the master of the said tug when requested by this claimant to state what compensation he would require for his assistance to the said "Celtic Chief" before the said tug's line was placed aboard the said "Celtic Chief," the said master of the said tug demanded the sum of \$20,000, and upon this claimant's refusing to agree

upon the said figure reduced the same to \$10,000, which this claimant also refused.

6. Answering the sixth article in said libel, this claimant admits that the said tug was the first vessel to appear at the scene of the said stranding, but denies that the said tug rendered any valuable services, and denies that the said tug was able to render [124] any valuable assistance to the said "Celtic Chief" either before or after the said tug's line was cut as aforesaid, and denies that the said tug could or would have performed greater or more efficient service than was performed by the said cruiser or any assistance; and this claimant further alleges that by and on account of the unjustified conduct of the said tug in refusing to yield its position to the said cruiser, this claimant was justified in cutting the said line and in refusing to permit the said tug to continue to attempt to render assistance to the said "Celtic Chief"; this claimant denies that before the said cruiser began to render assistance to the said "Celtic Chief" there was fair or any prospect of a successful salvaging of the said "Celtic Chief" at the hands and with the assistance of the said tug and the other agencies attempting to pull the said "Celtic Chief" off of said reef prior to the appearance at the scene of stranding of the said cruiser.

7. Answering the seventh article in said Libel, this claimant denies that the said tug and its equipment, master and crew, or any of the same, were exposed to any risk or peril during the operations in said Libel alleged and mentioned; and this claimant alleges that during all of said times the weather was fine and the sea smooth.

8. Answering the eighth article in said Libel, this claimant denies that the said "Celtic Chief" while stranded on said reef was in a position of imminent peril or was in great danger of having her hull stove in or her cargo greatly damaged or destroyed or of becoming a total wreck or loss; this claimant alleges that during all the times aforesaid, the weather was fine and the sea smooth and the said "Celtic Chief" lay in a bed in the soft coral of the said reef, within [125] easy reach of ample assistance to save both the said ship and her cargo; that this claimant denies that had it not been for the efforts of the said tug together with the steamers "Helene," "Mikahala," "Likelike" and "Mauna Kea" in pulling upon the said "Celtic Chief" with the exercise of skill and care on the part of the masters and crews of the said tug and steamers and the services of the other servants of the Inter-Island Steam Navigation Company, Limited, the said "Celtic Chief" would have become a total loss.

9. This claimant, answering the ninth article in said libel, denies that the said tug rendered any efficient service whatever in pulling off the said "Celtic Chief" from said reef or in floating her into deep water, or that the said "Celtic Chief" or her cargo was saved from total or any loss by or through the efforts of the said tug, her master or crew, either alone or together with the assistance of other parties.

10. Answering the tenth article in said Libel, this claimant denies that without the aid of the services of the said tug, the said "Celtic Chief" would have become a total loss, and denies that the services of the tug aforesaid or the said libellant were of any

value whatever to the said "Celtic Chief" or her cargo; and this claimant denies that the said libellant is entitled to any salvage award whatever and affirms that the said libellant's claim of \$15,000.00 is unjust and unfounded.

WHEREFORE this claimant prays that the said libel may be dismissed and that he may have his costs herein.

Dated January 11th, 1910.

(Sgd.) JOHN HENRY,
Claimant.

(Sgd.) HOLMES, STANLEY & OLSON,
Proctors for Claimant. [126]

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

John Henry, being first duly sworn, on oath deposes and says:

That he is the master of the British ship "Celtic Chief" and bailee of said ship and her cargo and freight money and the claimant herein; that he has read the foregoing answer and knows the contents thereof, and that the same is true to the best of his knowledge, information and belief; that he makes this verification from personal knowledge, as well as from information received from his officers, the members of his crew and others engaged in said salvage operations.

(Sgd.) JOHN HENRY.

Subscribed and sworn to before me this 11th day of January, 1910.

[Seal] (Sgd.) P. H. BURNETT,
Notary Public, First Judicial Circuit, Territory of
Hawaii.

[Endorsed]: No. 117. Claimant's Answer. Filed
Jan. 11, 1910. [127]

**Proceedings: Order of Consolidation and Setting
Cause for Trial—#115.**

From the Minutes of the United States District
Court, Vol. 6, Page 646, Monday, January 17,
1910.

[Title of Court and Cause—No. 115.]

On this day came Mr. A. Lewis, Jr., of proctors for libellant herein and also of proctors for libellant in the cause, Matson Navigation Company, Limited, vs. The British Ship "Celtic Chief," etc., No. 117, and Messrs. J. A. Magoon and P. L. Weaver, proctors for libellant in the cause, Miller Salvage Co., Ltd., vs. The British Ship "Celtic Chief," etc., No. 116, and Mr. C. H. Olson of proctors for libellees in each of said causes, whereupon this cause was called for hearing on libellee's motion to consolidate the three causes herein referred to for trial. Mr. Olson stated to the Court that he had filed a motion to consolidate in each of said causes, and it was thereupon agreed between the proctors for all the respective parties, and consented to by the Court, that said motion might be argued in this cause, said argument to apply as well to the motions on file in causes Nos. 116 and 117. Thereupon due argument was had by the

respective proctors in the above named causes, at the conclusion of which the Court granted said motion to consolidate. Upon motion of Mr. Magoon that the said consolidated causes be now set for trial, it was by the Court ordered that the same be continued until January 24, 1910, at 10 o'clock A. M., to be then set for trial. [140]

Proceedings In Re Motion to Consolidate—#116.

From the Minutes of the United States District Court, Vol. 6, Page 646, Monday, January 17, 1910.

[Title of Cause and Cause—No. 116.]

On this day came Mr. A. Lewis, Jr., of proctors for libellant, and Mr. C. H. Olson, of proctors for libellee herein, and this cause was called for hearing on libellee's motion to consolidate this cause with No. 115 and No. 116 for trial; whereupon proceedings relative to said motion were had in cause No. 115, as above set forth. [141]

Proceedings In Re Motion to Consolidate—#117.

From the Minutes of the United States District Court, Vol. 6, Page 646, Monday, January 17, 1910.

[Title of Court and Cause—No. 117.]

On this day came Mr. A. Lewis, Jr., of proctors for libellant, and Mr. C. H. Olson, of proctors for libellee herein, and this cause was called for hearing on libellee's motion to consolidate this cause with No. 115 and No. 116 for trial; whereupon proceedings

relative to said motion were had in cause No. 115, as above set forth. [142]

[**Depositions of John W. McAllister et al.**].

[Title of Court and Cause—Nos. 115, 116, 117.]

BE IT REMEMBERED that on Monday, July 24th, 1911, pursuant to order and stipulation of counsel hereunto annexed, at the office of Messrs. Page, McCutchen, Knight and Olney, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, JAMES P. BROWN, a United States Commissioner for the Northern District of California, to take acknowledgments, of bail and affidavits, etc., JOHN W. McALLISTER, a witness produced on behalf of the libellant.

CHARLES PAGE, Esq., appeared as proctor for the libellant, and S. H. DERBY, Esq., appeared as proctor for the claimant, and the said witness, having been by me first duly cautioned and sworn to testify, the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth. [279*—1†]

(It is hereby stipulated and agreed by and between the proctors for the respective parties, that the deposition of JOHN W. McALLISTER may be taken *de bene esse* on behalf of the libellant, at the office of Messrs. PAGE, McCUTCHEN, KNIGHT & OLNEY, in the Merchants' Exchange Building, in

*Page-number appearing at foot of page of certified Transcript of Record.

†Original page-number appearing at foot of page of Depositions as same appears in Certified Transcript of Record.

the City and County of San Francisco, State of California, on Monday, July 24th, 1911, before JAMES P. BROWN, a United States Commissioner for the Northern District of California, and in shorthand by CLEMENT BENNETT.

It is further stipulated that the deposition, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.) [280—2]

[Deposition of John W. McAllister, for Libellant.]

JOHN W. McALLISTER, called for the libellant, sworn.

Mr. PAGE.—Q. What is your name, age, residence and occupation?

A. My name is John W. McAllister; master mariner; age, 48.

Q. Your residence when you are at home, is where? A. Hawaii.

Q. What was the last command that you had while at Hawaii? A. At Hawaii?

Q. Yes.

A. My last command was in charge of the tugboat "Intrepid."

Q. Were you in command of that steam-tug in

(Deposition of John W. McAllister.)

December, 1906? A. Yes, sir.

Q. What is the size of that vessel, if you remember?

A. I could not exactly tell you her size; somewhere about 150 to 200 tons. I could not tell you exactly; somewhere in that average.

Q. Can you give her horse-power?

A. Her horse-power was on an average about 350.

Q. How long have you been going to sea?

A. About 35 years.

Q. In all kinds of vessels? A. All kinds.

Q. I suppose you have filled all positions from a seaman up to master? A. Yes, sir.

Q. Were you in command of the "Intrepid" in December, 1909? A. In December, yes, sir.

Q. Do you remember anything having occurred at that time to a vessel named the "Celtic Chief"?

A. I do.

Q. On what day did you have anything to do with the "Celtic Chief"? Do you remember what day of the month it was? [281—3]

A. At a quarter past 7 on December 6th, if I remember correctly.

Q. What happened then? You were in command of this same steam schooner?

A. Yes, sir, a towboat.

Q. I mean towboat. Did you leave the port of Honolulu on that morning? A. Yes, sir.

Q. At whose suggestion? A. My own.

Q. What made you go?

A. It was telephoned to me by the pilots that there

(Deposition of John W. McAllister.)

was a vessel outside, and they thought she was close in shore, on the lee side of the channel. I got up steam immediately and went out. I found that she was ashore.

Q. She was ashore?

A. She was ashore. I gave him my hawser.

Q. Wait a moment before you go any further. When you got there in what position did you find her with reference to the shore? Was it a reef?

A. It was not exactly a reef that you might call it; it was a shoal; it was level bottom; it is all reef, or a shoal whichever you have a mind to call it.

Q. How was she placed with reference to this reef or shoal? A. In what way do you mean?

Q. Was she facing it or broadside on it?

A. No, sir, right straight head on to it.

Q. Head on to it? A. Yes, sir.

Q. And ashore? A. Yes, sir.

Q. What was the character of the weather when you got out there?

A. Very moderate, light southerly winds, with a light southerly swell, which was against her.

Q. Why do you say it was against her?

A. Because it was hitting right on her stern, and forcing her further ashore. [282—4]

Q. At that time was she in danger of going further ashore? A. She certainly was.

Q. Was she in any danger of going broadside—

A. (Intg.) No danger of going broadside.

Q. Or would she go further ashore?

A. With the wind or swell.

(Deposition of John W. McAllister.)

Q. Your opinion was as the swell then was—

A. (Intg.) The swell and the wind was right in her favor to drive her right straight ashore, right ahead on.

Q. As it then was? A. As it was.

Q. If there had been any change of any kind in the swell or wind, would it affect her so as to throw her partially broadside? A. Yes, sir.

Q. Have you any knowledge of the winds and surf down there? A. I have a little.

Q. How long had you been engaged in those waters? A. About 18 years.

Q. What was the chance of there being any change in the direction of the swell, or in the direction of the wind at that time of the year?

A. The chance was for the winds to be in her favor, or blowing offshore.

Q. If anything?

A. If anything. At that time of the year the winds could not be trusted to. It is liable to come, anyway.

Q. Now, what did you do when you got there?

A. I gave her my hawser.

Q. What kind of a hawser?

A. Three and a half inch steel cable attached to a fourteen inch manilla rope.

Q. Was there any particular trouble in getting it aboard? A. None at all. [283—5]

Q. After you got everything made fast what did you then do? A. I proceeded to tow on the ship.

Q. Directly astern?

(Deposition of John W. McAllister.)

A. Yes, sir; right square astern.

Q. What was the character of the force that you put on with reference to the power of your own boat?

A. Well, the vessel was 350 horse-power and I gave her all she had.

Q. During that day, did any other boat or boats come up? A. Yes, sir, in the afternoon.

Q. Do you remember what boats they were?

A. Let me see. I think it was the "Mauna Kea."

Q. Any other one?

A. The other one was the "Helene." I have forgotten. It was sometime back. Excuse me, was it the "Helene" or "Maui" one of the two boats?

Q. The "Mikahala."

A. That is right. Was the other one the "Helene" or the "Maui"?

Q. The "Helene." A. All right.

Q. That was on Monday at 2 P. M.?

A. Yes, sir.

Q. Did they make fast and pull too?

A. Yes, sir.

Q. At that time all three pulling together, did you notice any change at all? A. None at all.

Q. On the next day did another vessel come up, the "Helene"? A. They changed it.

Q. The "Helene" took the place of which one?

A. The "Mauna Kea."

Q. She pulled with you also? A. Yes, sir.

Q. Did you succeed in pulling her off?

A. Not that day.

Q. Not that day? A. No, sir.

Q. The next day did somebody else come up?

(Deposition of John W. McAllister.)

A. No, sir. [284—6]

Q. How about the German cruiser?

A. That was on the third day.

Q. The "Helene" was the second day?

A. Monday, Tuesday, and Wednesday the German cruiser came up.

Q. The German cruiser "Arcona" came up?

A. Yes, sir.

Q. What happened when the "Arcona" came up?

A. What happened?

Q. Yes. A. Well, in regards to what?

Q. Any change in your position?

A. No, sir, anything more than they asked me to let go my hawser.

Q. Who asked you?

A. I don't know who he was; for that reason I took no notice.

Q. Somebody on board of the "Celtic Chief"?

A. No, sir. I learned afterwards it was a man from Theodore H. Davies & Co. that I think were agents for the ship.

Q. That man must have come out in a boat?

A. He was in a boat with President Kennedy of the Inter-Island Steamship Company. He was sitting in the boat at the time. But the man I did not know at the time I was speaking to him.

Q. He asked you to let go your hawser?

A. He asked me to slack up and let go my hawser. I said, "I don't know you and I am not going to let go."

Q. What happened then?

A. He says, "If you don't let go I will cut it." I

(Deposition of John W. McAllister.)

says, "That is up to you whoever you might be."

Q. Did they cut it?

A. They cut it aboard the ship.

Q. And the "Arcona" took her place?

A. She came in and run our cable in. She did not exactly take my place because she had plenty of room outside of my place. [285—7]

Q. Did she send her cable aboard of the "Celtic Chief"?

A. She sent her cable aboard of the "Celtic Chief."

Q. Did she tow?

A. I don't think she did; in fact, I am most sure of it. If I could explain the whole thing without questions I could tell you.

Q. You can go ahead.

A. When they cut my cable I made a round or two, and went on the lee side of them within hailing distance. I went aboard of the ship and saw the master and asked him if he required my assistance any more. He told me no. I said, "Well, I will lay here anyway within hailing distance of you. In case you need me I am within hailing distance."

Q. What about the "Arcona"? Did you see her do anything?

A. When she came on the reef—do not put this down. I will tell you first and explain it afterwards so that you can understand.

Mr. DERBY.—No, let us have it all down.

Mr. PAGE.—Proceed.

A. Well, let me see. I don't know exactly how to get around that so as to make it as short as possible.

(Deposition of John W. McAllister.)

We will put it this way. The Miller Salvage Company had lain an anchor astern of the "Celtic Chief" about halfway between the "Celtic Chief" and—how do you pronounce that?

Q. The "Arcona"?

A. There was a buoy in his anchor.

Q. Was that the "Arcona's" anchor?

A. No, sir. The Miller Salvage Company's anchor which he had a purchase of aboard of the ship attached to this anchor which certainly did assist her in getting off the reef. In the position that I was laying at the time—have you got the time when she got off? Excuse me. [286—8]

Q. 12:30 in the night?

A. Yes, sir. From the electric lights of the "Arcona," or however you may pronounce it, I could see this buoy very plainly. The "Celtic Chief" came off the reef, and was close to this buoy before the "Arcona" picked her anchor up. That is about as sure as I can give it to you.

Q. Had the "Arcona" dropped an anchor?

A. She had, two.

Q. Did the "Arcona" do any towing between the time that she sent her cable aboard and the time that the "Celtic Chief" came off?

A. She done it some time in the afternoon, but not at the time that she came off.

Q. Then at the time she came off, in your opinion, the "Arcona" was not really towing?

A. No, sir.

Q. Do you know how many hours your boat was towing on the vessel before your line was cut?

(Deposition of John W. McAllister.)

A. 53 hours.

Q. 53 hours?

A. Yes, sir; if I recollect correctly.

Q. That would be Monday, Tuesday and Wednesday?
A. Yes, sir.

Q. And during all that time what strain were you placing on your hawser?

A. Full speed right straight through, whatever power the boat had.

Q. You never let up?

A. I never let up. There was occasionally that the engineer might have let up, unbeknown to me.

Q. How long did you stay there after your line was cut ready to give any assistance which might be required?
A. Until the vessel went to the dock.

Q. Do you know whether or not there was any understanding or agreement between your boat and the "Celtic Chief" with reference [287—9] to taking the vessel into Honolulu after she should float?
A. No, sir.

Q. In your opinion from your knowledge of the locality, was the "Celtic Chief" in a safe or a dangerous place at the time you took hold?

A. In a dangerous place.

Q. In your opinion as a seaman, and a tugboat man, were the services of your tug of any value whatever in preventing the ship from going further on the reef?
A. It certainly was.

Cross-examination.

Mr. DERBY.—Q. You say you were in command of the "Intrepid," Captain. Were you in fact her master?
A. What is that?

(Deposition of John W. McAllister.)

Q. Were you in fact the master of the "Intrepid"?

A. Yes, sir.

Q. Were you not her mate and simply acting as her master at that time?

A. I relieved the master when he took the trip from Honolulu to San Francisco. I was master of the boat.

Q. When did he take that trip?

A. He took that trip, I think it was on the first of the month, if I am not mistaken. I have forgotten the date that I relieved him.

Q. Was he not coming back to resume command?

A. He certainly was, which he did.

Q. When he came back, you were simply mate?

A. I went back mate.

Q. You don't know yourself the size of the "Intrepid." It is only a guess on your part?

A. It is partly guess. I could find out, but I have forgotten exactly her size.

Q. Are you sure about the horse-power?

A. The horse-power I got from the engineer.

Q. He gave you 350 as horse-power?

A. Yes, sir.

Q. You are sure of that?

A. I am sure he gave it to me. [288—10]

Whether she is or not I don't know.

Q. Had you ever been master of a steam vessel before? A. Yes, sir.

Q. When? A. When?

Q. Yes.

A. I was master of a towboat for three years and a half in the territorial tugboat "Eleu." I was

(Deposition of John W. McAllister.)

master of the "Helene," of the "Maui," of the "James McKee," and the towboat "Eleu."

Q. These towboats were smaller boats than the "Intrepid"? A. Which?

Q. Both the towboats that you mentioned. The "Eleu" was much smaller than the "Intrepid"?

A. Smaller but more powerful.

Q. Were you master of these vessels before you went as mate on the "Intrepid"? A. Yes, sir.

Q. You went from being master on those boats, to mate of the "Intrepid"?

A. I resigned from the Wilder Steamship Company to take the towboat "Eleu."

Q. Then you left the "Eleu" to become mate of the "Intrepid"?

A. I left there and came up here to the coast and then went back in charge of her.

Q. Had you had much salvage experience before this experience with the "Celtic Chief"?

A. No, sir, not very much.

Q. Did you have any? A. No, sir.

Q. Now, when you went up to the "Celtic Chief" that morning, did you have any conversation with the Master of the "Celtic Chief" before you put your line aboard? A. I did.

Q. Did you not begin by offering to tow him off for the sum of \$20,000? A. I did.

Q. How did you happen to fix that figure?

A. I just merely spoke it in a manner. I never stopped the boat but backed right in. He says, "No, that is too much." [289—10] I says, "Captain, take my line, and we will settle that thing ashore."

(Deposition of John W. McAllister.)

He says, "All right."

Q. Before doing that, did you not reduce your figure from \$20,000 to \$10,000? A. No, sir.

Q. Are you sure of that?

A. Let me see, did I? I might have. I have forgotten about that, whether I did or not, but I was not counting on that at all. I says, "Well, we will not argue about the figure at all; take my line, and when you get off we will settle that affair." There was no time lost in doing it. I was backing up my boat at the time. I don't think I mentioned the two figures. I think it was only the one that I did.

Q. You would not be sure?

A. I would not be certain, I don't think I did.

Q. Who was your engineer at that time?

A. A man by the name of Maurice Barrett.

Q. Did he hear this conversation that you had with the captain of the "Celtic Chief"? A. He did.

Q. Did he hear you make this offer of \$20,000?

A. Yes, sir. That is, I think he did. I will not be certain. I was on top and he was below. Whether he did or did not I don't know, but I think he did.

Q. You say the weather was very moderate, and that there were light southerly winds and a light southerly swell which were all against the "Celtic Chief"? A. Correct.

Q. Did that weather continue while she was on the reef? A. It did.

Q. You say the danger was of her going straight ashore, head on? A. Yes, sir.

Q. In that weather there was no danger of her

(Deposition of John W. McAllister.)

going on broadside? [290—11]

A. Not in that weather; not there at present, but the weather was liable to change at most any time when she certainly would have been liable to go broadside on.

Q. When you went out to her you went right to her and put a line to her stern?

A. Did you not go around to her bow first?

A. No, sir, I could not get there. I had to sound my way in.

Q. You did not try to get around to the bow?

A. No, sir; I had no use for the bow anyway.

Q. Your boat did not go ashore at all during these salvage operations? A. No, sir.

Q. Was not the water fairly deep around the "Celtic Chief"?

A. It was not deep enough to float her. She was ashore.

Q. It was deep enough to float your boat?

A. No, sir, not where she was.

Q. When you went out to her your boat did not bump on the rocks?

A. No, sir. I was astern of her. I sounded my way in with the lead line. I knew the draught of my vessel and I knew what water she could go in on.

Q. Do you remember distinctly the size of that hawser that you put aboard? A. 14.

Q. Are you sure it was 14?

A. $4\frac{3}{4}$ or $3\frac{1}{4}$ inch steel wire.

Q. I am not worrying about the wire. You are sure it was a 14-inch rope?

A. I think it was. I will not be certain.

(Deposition of John W. McAllister.)

Q. Might it not have been a 10-inch rope?

A. It was over 10, I know; it was either 12 or 14. I call it 14.

Q. It was not 13?

A. I don't know of any hawser made of that size.

Q. There is no such hawser as a 13-inch hawser?

[291—12]

A. Not that I know of.

Q. Do I understand you to say, Captain, that you towed continuously on the "Celtic Chief" at full speed during all the time you were out there, both at high water and low water? A. Yes, sir.

Q. What was the use of going full speed at low water?

A. The use was to keep the vessel from going any further on the reef.

Q. She was not likely to go further at low water?

A. I continued on the same speed as far as I know of from my engineer.

Q. Were you watching? A. No, sir.

Q. Were you watching the hawser pretty much all the time? A. I certainly was.

Q. Are you sure that hawser did not get slack at all? A. In the swell; yes.

Q. It sometimes would get slack?

A. In the swell, yes.

Q. Then it would hang in the bight in the water?

A. Yes, sir, and then pick up again.

Q. You say it was the "Helene" that took the place of the "Mauna Kea"?

A. I think it was; either the "Helene" or the "Maui."

(Deposition of John W. McAllister.)

Q. How did the "Mauna Kea" happen to leave?

A. She was a passenger-boat and had to carry the mail.

A. She went off on her regular time?

A. Yes, sir.

Q. On her usual run?

A. I think she did. I will not be certain. That was the reason she had to leave.

Q. Did you not have any conversation with those on board of the "Celtic Chief" in regard to the cutting of your hawser? A. No, sir. [292—13]

Q. Did not the captain or any of the officers of the "Celtic Chief" call out to you at that time?

A. They did.

Q. But you could not hear what they said?

A. No, sir.

Q. You did not know that they wanted to cut your hawser?

A. No, sir. There were four propellers working, and with the noise of the propellers I could not hear a word that was spoken.

Q. Did they not send you a letter asking you to let go your hawser? A. Yes, sir, they did.

Q. Who was that letter signed by?

A. The captain.

Q. You took that as authentic, didn't you?

A. I did.

Q. Then it was not this man from T. H. Davies & Co. who came out in a boat who asked you to let go?

A. Yes, sir, he was the man that asked me first.

Q. Then the letter came later?

A. Then the letter came later.

(Deposition of John W. McAllister.)

Q. You still refused to let go?

A. I still refused.

Q. You knew that they wanted you to go so that the "Arcona" could take your place?

A. Yes, sir, exactly.

Q. And the "Arcona" was a larger boat than yours?

A. Yes. The reason I did not let go was because the three Inter-Island boats were there. They were in the freighting business, and I was in the towing and salvage business, and I had no reason to let go my hawser to make room because there was plenty of room for her without my letting go.

Q. You had the very best position for pulling there, of all the vessels? A. Yes, sir.

Q. No other vessel could have got in as good a position as you were? A. No, sir.

Q. Do I understand you to say that you did not take your vessel [293—14] into Honolulu at all after your hawser was cut? A. I did not what?

Q. That you did not go into Honolulu at all with your boat?

A. I did. I went into Honolulu and got a new hawser and came out.

Q. You were hanging round there all the time?

A. I stayed there until the vessel went into port.

Q. What was your object in doing that?

A. In case he required assistance.

Q. Although he had told you he did not want any assistance?

A. That is quite correct. I remained anyway. I told him I would remain there anyway until he got

(Deposition of John W. McAllister.)

into port, and in case he required me I was there, and he said "All right."

Q. You say that your services were valuable in preventing the "Celtic Chief" from going further up on the reef? A. Yes, sir.

Q. Could not the "Celtic Chief" have put anchors out to help her?

A. Her anchors were out, but her anchors were useless.

Q. Was not the anchor that the Miller Salvage Company put out, of some assistance?

A. Ah, but it was two days later.

Q. Did you ever test your hawser to see what strain was being put on it, Captain? A. No, sir.

Q. You can test the strain on a hawser by putting your foot on it? A. No, sir, you cannot.

Q. You cannot? A. No, sir.

Q. That is your belief as a seaman?

A. Yes, sir.

Q. You have never heard of testing the strength put on hawsers in that way? A. No, sir.

Q. The tendency of your boat was, as I understand, to keep the "Celtic Chief" from going head on the reef? A. Yes, sir. [294—15]

Q. But not to hold her from going broadside?

A. Hold her either way.

Q. There was no danger of her going on broadside?

A. No, sir, not unless the wind changed.

Q. When the "Celtic Chief" came off, did she not come off in the direction of the "Arcona"?

A. Yes, sir.

(Deposition of John W. McAllister.)

Q. I do not quite understand, then, your theory that the "Arcona" did not assist at all in pulling her off?

A. When she lay still why could she assist her?

A. They were pretty close together when the "Celtic Chief" came off; they were almost close together.

Q. Cannot you pull on a ship by heaving on your own anchors? A. You certainly can.

Q. You say you certainly can?

A. You can, yes.

Q. How do you know that the "Arcona" was not doing that?

A. Because she ought to have left the division between the vessels, the space, which she did not. The buoy of the Miller Salvage Company lay halfway between the "Arcona" and the "Celtic Chief" and the "Celtic Chief" was close up to the buoy, but the "Arcona" lay still when she came off of the reef.

Q. The "Intrepid" did not have any anchors down during the operations?

A. No, the "Mikahala," the "Helene" and the "Likelike" were heaving on their anchors at the time she came off with the Miller Salvage Company heaving on his tackle.

Q. You could not tell from where you were by seeing whether the "Arcona" was heaving on her anchors or not?

A. I certainly could. I was laying still.

Q. Could you see the "Arcona's" anchor-chain?

A. No, sir, it was not necessary to see her anchor-chains. I could see her stern and the buoy. The

(Deposition of John W. McAllister.)

electric lights were [295—16] then shining on them.

Q. You did not see her anchor-chains at all?

A. No, sir, I could not because the "Helene" was in my way.

Redirect Examination.

Mr. PAGE.—Q. At the time that you came up to the "Celtic Chief" on the morning of December 6th, in what condition was the ship on the shore with reference to having her sails furled or sails up?

A. All sails were set; all square sails were set.

Q. At that time, and with the conditions as they were when you got there, what effect would having her sails set have on the ship with reference to getting off or going on? A. Going on.

Q. She would go on further? A. Yes, sir.

Q. How broad about is that shore or reef on which the vessel was? Did it go a long distance into the water, or did it come up steep?

A. No, sir, shallow.

Q. That is, it extended some distance right into the water?

A. It extended some distance right into the beach.

Q. Have you any idea whether the "Celtic Chief" was a short distance on the bottom, or any large part of her was on the bottom?

A. According to my estimation she was on all over.

Q. What do you base your idea on?

A. Because it was a shallow bottom and she certainly must have been all over.

Q. That is, resting on her entire keel?

(Deposition of John W. McAllister.)

A. Resting on the whole extent of her keel.
[296—17]

Recross-examination.

Mr. DERBY.—Q. According to your idea she was pretty hard aground?

A. Yes, sir, she was aground all of her.

Q. Pretty hard aground according to your idea?

A. Yes, sir.

Q. Her stern was aground as well as the bow?

A. As well as the bow.

Q. When were the sails taken down?

A. Immediately after I put my hawser aboard. I ordered the sails taken down myself.

Q. What right had you to order the sails taken down?

A. I had taken my line aboard of the ship, and I told them to take the sails in, the pilot and everyone else. They looked aloft and realized the sails were set and took them in immediately.

Q. You mean to say they did not know the sails were set.

A. They might have been thinking about something else and forgot.

Q. What time did the "Celtic Chief" go ashore, do you know?

A. I do not know. I ordered the sails taken in myself.

Q. After the "Celtic Chief" went aground did she go ashore any further?

A. I don't know, I was not there. As far as I learned she went ashore sometime about 8 or 9 o'clock

(Deposition of John W. McAllister.)

in the evening, and it was 7 o'clock the next morning when I took hold of her. During that time I don't know nothing.

Q. How was the water when you arrived—high or low?

A. I think it was about half tide, if I am not mistaken. I could not exactly say at the present time. There is very little difference in the tides there anyway, only about 18 inches; from 18 inches to 2 feet.
[297—18]

[Title of Court and Cause—Nos. 115, 116, 117.]

BE IT REMEMBERED that, pursuant to the stipulation and order hereunto annexed, at the office of Messrs. Page, McCutchen, Knight & Olney, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, FRANCIS KRULL, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., MAURICE BARRETT, a witness produced on behalf of the libelant, Matson Navigation Company.

CHARLES PAGE, Esq., of the firm of Messrs. Page, McCutchen, Knight & Olney, appeared as proctor for the libelant, and S. H. DERBY, Esq., of the firm of Messrs. McCLANAHAN & DERBY, appeared as proctor for the respondent; and the said witness, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did there-

upon depose and say as is hereinafter set forth.

(It is hereby stipulated that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.) [307]

[Deposition of Maurice Barrett, for Libelant.]

MAURICE BARRETT, called for the libelant, Matson Navigation Company, sworn.

Mr. PAGE.—Q. What is your name?

A. Maurice Barrett.

Q. Your age? A. 29 years.

Q. Your residence?

A. 768 Lydia Street, Oakland.

Q. And your occupation? A. Marine engineer.

Q. What was your occupation in December, 1909?

A. Chief engineer of the tug "Intrepid."

Q. Where was the tug "Intrepid" at that time?

A. Stationed at Honolulu, Territory of Hawaii.

Q. Do you remember leaving the port of Honolulu as chief engineer of the "Intrepid" on the morning of December 6th, 1909? A. I do.

Q. What did you start for? A. A ship outside.

Q. When you got outside did you find the ship?

A. We found the ship ashore.

Q. Do you know the name of the place at which she was ashore?

(Deposition of Maurice Barrett.)

A. Well, it is called Quarantine Island, right off the Quarantine Station.

Q. Was the ship making any signals of any kind?

A. Not when we got out there in the morning.

Q. What did you do after you saw her?

A. We got as close as we could, and the skipper talked to the captain of the sailing ship and asked him if he wanted a line.

Q. When you got up near or in the neighborhood of the ship, what did you do for the purpose of ascertaining what the conditions were under which you could tow?

A. The skipper had the mate sound, sound the water.

Q. What did you find?

A. It was shallow water for a big boat. [308—3]

Q. Pretty shallow for a boat of your kind?

A. Well, it was pretty shallow for our boat, and we only drew 12 feet; we had to be careful how we got around there.

Q. Did you hear anything that passed between the captain and your captain? A. Yes.

Q. What was it?

A. Our skipper asked if he wanted a line and he said yes.

Q. Did he hand it to you, did he give you a line?

A. So we tried to back in as far as we could to get a line on the bow, but we could not, so we took a stern line—we could not get in close enough, because our ship bounced on the rocks.

Q. What do you mean by bounced on the rocks?

(Deposition of Maurice Barrett.)

A. The stern of the boat—we backed in you see and the stern and the rudder hit on the coral, so we could not get close enough in to get a bowline on, so we took a stern line—

Q. How did you get the line aboard the “Celtic Chief”— A. We threw it.

Q. By the way, did you find out what the name of the ship was? A. Yes, the “Celtic Chief.”

Q. Now, you say you threw the line aboard.

A. One of the sailors threw the line aboard.

Q. From the stern of your boat?

A. To the stern of the “Celtic Chief.”

Q. To the stern of the “Celtic Chief.” A. Yes.

Q. She was lying bow on or stern out, the “Celtic Chief”? A. Bow on the rocks.

Q. Bow on the rocks.

A. And the stern out to the ocean.

Q. Then I suppose you passed a heavier line by that first line. A. We passed a 13-inch line on.

Q. How long a line did you put out before you began to tow? [309—4]

Q. We had 120 fathoms out at last.

Q. Did you tow her off at once? A. No, sir.

Q. How long were you towing on her?

A. We were towing 54 or 55 hours; we were in there two or three days.

Q. Steady? A. Steady, yes, night and day.

Q. How much of your boat’s power did you put on in the towing?

A. All of it; every high tide we put on passovers.

Q. What is that?

(Deposition of Maurice Barrett.)

A. Live steam with low-pressure engine. That is what they call a passover. It increases the horsepower of the engine.

Q. That was at low tide?

A. High tide; tiptop high water.

Q. Were you pulling at low tide too?

A. Pulling at low tide, yes.

Q. To what extent, what power?

A. Just common full speed ahead.

Q. What danger, if any, was there in the use of these passovers in order to increase the power of your engine?

A. Well, if you would increase the passovers too much you are liable to crack the cylinder-head on the engine, and disable her that way.

Q. Now, on the day that you began towing, what other vessels, if any, came out to take part in the salvage operations?

A. Well, there was at least two Inter-Island boats came out there, the "Mauna Kea"—and I don't know what the other one was. There were so many I could not exactly tell the name of the other one. There was two of them anyhow.

Q. What did they do?

A. They put a wire hawser aboard too.

Q. They made fast? A. Yes, sir.

Q. What is the greatest number of boats that were pulling at the [310—5] same time?

A. There was five, at the most.

Q. Five at the most? A. Yes.

Q. At any time before the vessel came off was any-

(Deposition of Maurice Barrett.)

thing done by which your vessel ceased to pull?

A. Yes. The skipper of the "Celtic Chief" wanted us to let go our hawser, and we would not let go. So he told us three times, and we kept pulling on the rope so that he could not lift it off with all the men he had on board, so he took a blocking chisel and a hammer and chopped the line and wire hawser.

Q. Had he told you why he wanted you to let go?

A. He told us he wanted us to let go to get the German cruiser a place to get hold.

Q. After that what did you do?

A. We went and got oil and went into the dock. We stayed around a little while, but there was no use, so we went into the dock.

Q. That is you stayed around the "Celtic Chief" a little while?

A. Stayed out in deep water; she was floated, and then we went into the dock.

Q. I mean immediately after your line was cut, did you go back to Honolulu, or did you stay there?

A. We went out into deep water right off the ship because she started to go in a couple of hours from then—we stayed out in deep water so we would not be in the way and then we took in our line and we went to the dock.

Q. After she was free?

A. After she was afloat, yes.

Q. What condition was the "Celtic Chief" in with regard to being in danger, in your judgment, as she lay with her bow on the rocks and her stern out?

(Deposition of Maurice Barrett.)

A. Well, she was in a very precarious condition because, as a [311—6] rule there is a high surf rolling there; if there had been a surf rolling the two or three days she laid there it would have broken her up, and she would have been scattered all over.

Q. As a matter of fact, it turned out to be calm?

A. It happened to be calm for the three days, or until she was floated.

Q. Had your pulling, in your judgment, anything to do with keeping her in position, one side or the other?

Mr. DERBY.—I suppose objections will be reserved.

Mr. PAGE.—Yes.

Q. So that on one side or the other she would not turn toward the reef?

A. If she had not had a tugboat on her, she would have swung around with the tide and went on sideways, and been broke up, if there had not been a tugboat on, because the stern of the boat was afloat and the bow was stuck; the front of it was stuck, she was stuck about 15 or 25 feet back; if there had not been anybody on it the seas and everything would have thrown her around broadside to and broken her all up; the towboat served to keep her stern right out to the sea; she would have listed in no time if there had not been a towboat holding on to her.

Cross-examination.

Mr. DERBY.—Q. How long had you been with the "Intrepid"? A. 15 months.

Q. In Honolulu? A. Yes, sir.

(Deposition of Maurice Barrett.)

Q. How long were you on her after this salvage operation? A. Five months; I left her in June.

Q. How did you happen to leave her?

A. Came off on a vacation.

Q. Were you going back to her?

A. No. I like it up here too well. [312—7]

Q. Who was the captain of the "Intrepid"?

A. At the time of the wreck?

Q. Yes. A. Mr. McAllister.

Q. Do you know how long he stayed there afterwards?

A. He stayed there a couple of months after I left. He was mate before the skipper took a trip to the coast; he was then acting captain, when this here ship was ashore.

Q. Do you know why he left her?

A. He had a skipper's job on a sailing ship, and took the sailing ship to San Pedro.

Q. On what part of the "Intrepid" were you during the salvage operations? A. The engine-room.

Q. All the time? You were attending to the engines principally? A. Yes, sir.

Q. How did you happen to hear what passed between your captain and the captain of the "Celtic Chief"?

A. Over the engine is a skylight, a ship's skylight, and it always is up, and the captain at any time when he is pulling anything from astern, he stands right over you; the mate is in the wheelhouse,—he is always looking astern, he is always in the stern of the boat to see how a boat is and everything.

(Deposition of Maurice Barrett.)

Q. Could you hear through the skylight what the captain of the "Celtic Chief" said? A. Yes, sir.

Q. Did the captain of the "Intrepid" make any offer, make any statement as to the price he would take to pull the "Celtic Chief" off?

A. No. I never heard him say anything about any offers.

Q. How long did this conversation last that you have testified to when you first got out there? [313—8]

A. It was about two minutes before they put a line aboard; they were chewing the rag there a couple of minutes; then they got up close as they could and threw a hawser to her.

Q. What were they chewing the rag about?

A. Asking him if he wanted a hawser, and he said yes, so we put a hawser aboard.

Q. Was that all there was to that conversation?

A. That is all I could hear. I got the bells to back and fill on the engine, and then I let go of the conversation, because when we first started to talk the engine was still, and when they got started to back they went to using the engine to get close so as to get hooked on and I paid no more attention to it.

Q. There was a good deal of the conversation that you did not hear? A. Yes.

Q. How do you know about these soundings taken by the mate? A. I could see them.

Q. See them from the engine-room?

A. I was at the door. You could take two steps

(Deposition of Maurice Barrett.)

and be on deck. Where you handle the engines is right flush with the deck; if you take two steps you can look out through the door.

Q. You went up on deck and saw this?

A. I was on a place flush with the deck. The engine-room of the towboat is always flush with the deck, so the engineer can see where the boat is going. You can always take two steps on any towboat and notice any object or see where the boat is, so I took a step out there and I saw him heaving the lead.

Q. How deep did you say the water was?

A. I do not know anything about the water; it was pretty shallow for us; we only drew 12 feet.

Q. Do you know how much the "Celtic Chief" drew? [314—9]

A. No, I could not tell you.

Q. But you could not get up and get your bowline aboard?

A. No. She was too shallow, she was ashore high and dry; we got up there and the rudder got striking on the bottom, so we came away.

Q. Why did you try to get the bowline on first?

A. We could do more pulling; the best place to haul a boat is on the bow.

Q. How do you know your line was a 13-inch line?

A. The skipper said so. That is that big around; you take it by the circumference; it is as big as that. (Illustrating.)

Q. You know it because the skipper says so.

A. Because everybody says so; it is a 13-inch hawser; it was sold for a 13-inch hawser. I don't

(Deposition of Maurice Barrett.)

know whether it was 13 inches in circumference—it is a 13-inch line, sold for a 13-inch hawser, and the cable on the end of it is $11\frac{1}{8}$ inches, with a wire pennant on the end, when it was cut on that occasion.

Q. How do you know that?

A. Because I measured that myself, because we bought it.

Q. You say you were towing steadily all the time at full speed? A. Yes, sir.

Q. During the whole three days you were out there? A. Yes, sir.

Q. What revolutions were your engines making?

A. 74.

Q. What is the most they can make?

A. 82, running light.

Q. What is the horse-power of the "Intrepid"?

A. 325.

Q. Were you noticing the hawser all the time to see whether it was slack or taut?

A. We have got two windows back of the engine-room where you could see the tows all the time.

Q. You were watching it all the time?

A. Yes, sir. [315—10]

Q. Are you sure that that hawser did not get slack at all? A. It was not slack at any time.

Q. Didn't it ever hang in a bight in the water?

A. No, it did not.

Q. Did you ever test it by putting your foot on it?

A. How could I?

Q. You cannot test a hawser by putting a foot on it?

(Deposition of Maurice Barrett.)

A. A 13-inch hawser—you never could put a nick in it if ten fellows jumped on it.

Q. Were any of your cylinders in fact cracked?

A. No, sir.

Q. Your boat was not damaged at all?

A. No, sir.

Q. The weather was perfectly calm all the time?

A. The weather was not calm, but it was not rough; fair weather.

Q. It was mild weather for that time of year?

A. Moderate weather; yes.

Q. How long did the “Mauna Kea” stay at the scene of the salvage operations?

A. I could not say the number of hours; but she was not there more than 18 or 20 hours, because she had to sail the following day; she was around there for a while and then left.

Q. She sailed on her schedule time the following day; on her regular trip?

A. On her regular trip to Hilo.

Q. When she left what other boats were there?

A. There was us and there was two more boats came out there. I don't know what the names of them were, but there was two more of those Island boats came out there.

Q. Was that after the “Mauna Kea” had left?

A. Yes, sir.

Q. There was no more there before she left?

A. Well, there was three boats—four boats there altogether when she left; there were two Inter-Island boats besides herself there at this time. [316—11]

(Deposition of Maurice Barrett.)

Q. Did you hear the conversation about the letting go of your hawser?

A. No. The skipper told me about it—asked me what I would do about it.

Q. You knew that they wanted her to let go so that the "Arcona" could take her place? A. Yes, sir.

Q. The "Arcona" was a much larger boat than yours, was she not? A. Yes, sir.

Q. After your hawser was cut you say you stayed around there till the ship was afloat?

A. We drifted out into deep water, and pulled in our hawser and stayed awhile.

Q. Didn't you go to Honolulu at all?

A. Yes, that is where we lived, in Honolulu.

Q. I mean while you were waiting around there and before the ship was salvaged?

A. Yes, we went to Honolulu.

Q. This stranding was right in Honolulu harbor, was it not? A. No, it is outside the harbor.

Q. Well, it is right at the entrance of the harbor?

A. At the entrance of the harbor, yes. The harbor isn't as big as a minute. This was outside, an eighth of a mile from there; there is two miles of water.

Q. You had no anchors down, did you?

A. No, at no time. There is no good at all of an anchor there.

Q. Could not the "Celtic Chief" hold herself in position by putting down anchors? A. No.

Q. Why not?

(Deposition of Maurice Barrett.)

A. Could not get them out far enough; could not carry them—had no boats that would carry out an anchor to hold a big ship like that.

Q. But the power your boat could put on you think would be [317—12] sufficient to hold her without anything else on at all?

A. Hold her stern on to the sea; yes.

Redirect Examination.

Mr. PAGE.—Q. You begin towing Monday morning about a quarter past 7, did you not?

A. Yes, sir.

Q. And at the time your line was cut by the captain of the “Celtic Chief” it was Wednesday?

A. Yes, sir.

Q. And about what time of day?

A. I think it was after dinner, after 12 o'clock; some time in the afternoon; early afternoon.

Q. Was that December 8th? Can you look at this paper and see if this is your own handwriting, your own log, and state when the time was exactly that the “Celtic Chief” cut your line? A. 12:30 P. M.

Q. 12:30 P. M. on December 7th?

A. Yes. In the afternoon right after dinner; you could see them all up there talking around, three or four officers; and they had a member of the crew up there chopping her.

Recross-examination.

Mr. DERBY.—Q. Where were you when the line was cut?

A. In the engine-room, looking through the windows.

(Deposition of Maurice Barrett.)

Q. Was it not pretty necessary about that time for you to be attending to your engines?

A. There were two windows in the engine-room that you can see right through when you are standing at the throttle; you can see right astern and you can see everything that is behind you; nothing in front of you.

Q. You were running the engines and watching the operations too?

A. I was standing there and looking at the men on the "Celtic Chief" chopping the wire.

Q. How do you know there were so many men chopping? [318—13]

A. You could see them all; you could see eight or nine men.

Q. You think they were all chopping?

A. No; only one man was chopping.

Q. They were just standing around looking at it?

A. Standing around amidst the officers; one man was holding a chisel. Eight or nine men could not chop one wire at once. [319—14]

[Title of Court and Cause—No. 116.]

**Depositions of Capt. Henry, J. J. Lowry, J. L. Brisco,
M. Sorensen, A. Gordon, in Evidence. [334]**

[Title of Court and Cause—Nos. 115, 116, 117.]

Thursday, January 27th, 1910 (2 P. M.)

BE IT REMEMBERED that on the 27th day of January, A. D. 1910, appeared the above-named

claimant by his proctors Messrs. [336—1] Holmes, Stanley & Olson, the above-named Miller Salvage Company, Limited, one of the above-named libellants, by its proctors, Messrs. Magoon & Weaver, and the above-named Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company, the other libellants above named, by their proctors, Messrs. Smith & Lewis, at the office of the Clerk of the District Court of the United States for the Territory of Hawaii, before Harold G. Spencer, a United States Commissioner, for the purpose of taking the testimony of witnesses, in accordance with the notice of taking depositions *de bene esse* served by the said claimant on the said proctors for the said libellants, on the 26th day of January, A. D. 1910, which said notice of taking depositions is on file in the office of the Clerk of said court.

IT IS HEREBY STIPULATED AND AGREED by and between the said proctors that the taking of the said depositions be adjourned to the courtroom of the said court adjoining the said Clerk's office, immediately.

(Sgd.) MAGOON & WEAVER,
Proctors for Libellant Miller Salvage Company,
Limited.

(Sgd.) SMITH & LEWIS,
Proctors for Libellants Inter-Island Steam Navigation Co., Ltd., and Matson Navigation Company.

(Sgd.) HOLMES, STANLEY & OLSON,
Proctors for Claimant. [337—2]

Courtroom of the United States District Court.

By Mr. LEWIS.—How about this proposition of

objections, Mr. Magoon, Mr. Weaver and Mr. Olson? This signing of this stipulation, the stipulation goes with it of the offering of the evidence by any party to the Court, or rather may be used by any party.

(R. A. Kearns here sworn as official stenographer.)

By Mr. OLSON.—I first wish to file a stipulation signed by the proctors on behalf of all parties, providing for the taking of the testimony of the witnesses, whose testimony is to be taken under the notice heretofore given, by R. A. Kearns and by said R. A. Kearns to be transcribed and reduced to type-writing and certified by him to be a true transcript, and filed with the said Commissioner and by him to be filed in the court without being read over to the witnesses or without the necessity of their signing the same.

IT IS HEREBY STIPULATED AND AGREED that the testimony taken by deposition, pursuant to the notice given, may be offered or used by any of the parties above named.

IT IS HEREBY FURTHER STIPULATED AND AGREED by and between the above-named parties that objections to questions shall be noted as the questions are asked during the course of the taking of the testimony, and that motions to strike testimony shall be made during the course of the proceedings before the Commissioner under the notice under which these depositions are taken.

(Sgd.) MAGOON & WEAVER.

(Sgd.) HOLMES, STANLEY & OLSON.

(Sgd.) SMITH & LEWIS. [338—3]

[Deposition of John Henry, for Libelee.]

JOHN HENRY, master of the ship "Celtic Chief," called, sworn.

(By Mr. OLSON.)

Q. What is your name? A. John Henry.

Q. What is your occupation?

A. Master mariner.

Q. How are you employed at present?

A. I am employed as master of the "Celtic Chief."

Q. What nationality is the vessel named the "Celtic Chief"?

A. English.

(By Mr. MAGOON.)

Q. British? A. Yes.

(By Mr. OLSON.)

Q. Was that your occupation from December 5th, 1909, on and until the present day? A. Yes.

Q. Where was the "Celtic Chief" on December 6th of 1909?

A. She was on the reef outside the harbor.

Q. What harbor? A. Honolulu harbor.

Q. When did she go on the reef?

A. On the 6th day of December.

Q. 1909? A. Yes.

Q. At what time? A. 2:30 A. M.

Q. What day of the week was that?

A. Monday morning. [339—4]

Q. On which side of the harbor of Honolulu?

A. The west side of the harbor.

Q. About how far from the entrance?

A. About half a mile.

Q. Did you receive any assistance?

(Deposition of John Henry.)

A. Yes, I did.

Q. When was the first assistance offered you?

A. About half-past six on Monday morning.

Q. By whom?

A. By the Young Brothers launch "Huki-huki."

Q. Was there any other assistance offered to you thereafter? A. Not until later on in the day.

Q. At what time in the day?

A. About half-past seven A. M.

Q. Who offered you assistance at that time?

A. The tug "Intrepid."

Q. State how that assistance was offered to you.

A. When he first came out he sung out if we wanted any assistance.

Q. Who sang out that?

A. I took it for the captain of the ship.

Q. What did you reply?

A. I asked him if he would give us an offer to tow us off.

Q. What did he say?

A. He said he would tow us off for twenty thousand dollars.

Q. What did you reply?

A. I said, "No," I could not think of it. [340—5]

Q. What did he say then?

A. A little later on he came down; I again asked him if he would not come down any in the price and he told me then he would do it for ten thousand dollars.

Q. What did you say to that?

A. I would not take him at that price.

(Deposition of John Henry.)

Q. What, if any, arrangement was made then?

A. After I would not take him at that price he said he would leave it and we would settle it ashore.

Q. What did you say?

A. I agreed to that. And then his line was passed aboard the ship.

Q. Who passed his line aboard the ship?

A. The captain of the "Intrepid."

Q. What kind of a line was that?

A. A small wire with an eye in it; a manila hawser with a small wire spliced in the end.

Q. What kind of a manila hawser as to size was it?

A. It was either an eight inch or ten inch hawser; I cannot tell which.

Q. What was done with that line?

A. It was taken on board the ship and the wire was put over the bitts; the wire with an eye spliced in it was put over the top of the bitts.

Q. At what point of the vessel was the line attached to the "Celtic Chief"—the port quarter or the starboard quarter?

A. The starboard quarter.

Q. At an angle or directly astern?

A. Directly astern.

Q. What assistance other than that offered by Young [341—6] Brothers and by the "Intrepid" was offered to you thereafter, if any?

A. There was the "Mikahala" and "Mauna Kea" after that.

Q. When did they offer assistance to you?

A. About half-past nine or ten o'clock on Monday morning.

(Deposition of John Henry.)

Q. State how that assistance was offered.

A. They came out and wanted to know if I required any assistance and I told them yes, and the lines were passed aboard the ship after that.

Q. Where was the "Mauna Kea's" line attached to the "Celtic Chief"?

A. The "Mauna Kea's" line was passed through the port quarter wharfing chock and around the mizzenmast.

Q. What kind of a line?

A. A twelve-inch manila.

Q. What about the "Mikahala"?

A. She was fast through the starboard quarter pipe and fast on to bitts on deck, on the main deck.

Q. What kind of a line?

A. An eight-inch manila, I believe.

Q. How long did the "Mauna Kea" continue to have her line attached to the "Celtic Chief"?

A. Until Tuesday morning about eight o'clock.

Q. What happened then?

A. Then she went away and the "Helene" relieved her.

Q. How did the "Helene" relieve the "Mauna Kea"?

A. Passed a line aboard from the "Mauna Kea" to the "Helene."

Q. The same line? A. Yes. [342—7]

Q. What was the next change?

A. There was the Miller Salvage Company.

Q. What did the Miller Salvage Company do?

A. Captain Miller. (Question withdrawn.)

(Deposition of John Henry.)

Q. What was the next change in vessels towing on the "Celtic Chief," if any, after the "Mauna Kea" left?

A. The "Likelike" was the next change.

Q. What did she do?

A. She made fast on Wednesday morning about eleven o'clock.

Q. Where did she make fast?

A. On the port quarter pipe to the main deck bitts.

Q. What kind of a line?

A. An eight-inch manila, I think.

Q. How long did the "Intrepid" continue to have her line attached to the "Celtic Chief"?

A. Until nearly twelve o'clock on Wednesday.

Q. What happened then?

A. I had to cut his line.

Q. Why did you have to cut his line?

A. Well, I had an offer of a much larger and powerful boat.

Q. What boat? A. The "Arcona."

Q. What is the "Arcona"?

A. A German cruiser.

Q. Where was the German cruiser at that time?

A. She was astern of my vessel coming out to give me assistance.

Q. From the harbor of Honolulu?

A. Yes, from the harbor of Honolulu. [343—8]

Q. Why was it necessary to cut the line of the "Intrepid" in order to get the services of the German cruiser?

By Mr. LEWIS.—Objection, on the ground that it

(Deposition of John Henry.)

is incompetent, irrelevant and immaterial, no proper foundation having been laid.

A. (By WITNESS.) Well, the cruiser was a much more powerful boat, and his assistance—at least I procured his assistance before that.

(By Mr. OLSON.)

Q. I will ask you again, why did you cut the line of the "Intrepid"?

A. Because the captain would not let go his line.

Q. The captain of which boat?

A. Of the "Intrepid."

Q. Why did you want him to let go the line?

A. To get this German cruiser into position to tow my ship off.

Q. Explain why it was that it was necessary to have the "Intrepid" let go her line in order that the cruiser might tow on the "Celtic Chief."

A. Because I could not get her into position with the "Intrepid" in the position she was in at that time.

Q. Why was it necessary to have the cruiser in the position of the "Intrepid"?

By Mr. LEWIS.—Objection, on the ground that the question has been asked and answered.

A. (By WITNESS.) Because I could not get any other position for the German cruiser. [344—9]

(By Mr. OLSON.)

Q. State the conditions upon which the German cruiser was willing to give assistance to you.

By Mr. LEWIS.—Objection, on the ground that it is incompetent, irrelevant and immaterial.

A. (By WITNESS.) He was willing to give as-

(Deposition of John Henry.)

sistance on the condition that I would get the "Intrepid" out of that. He was willing to give me the power of his boat under the condition that I would get the "Intrepid" out of that.

(By Mr. OLSON.)

Q. Was that the reason why you wanted the "Intrepid" out of the way? A. Yes.

Q. I will ask you how you know that the captain of the "Intrepid" would not give way his position.

A. Well, I sung out to him a good few times, both the Chief Officer and myself; I also sent him a letter.

Q. What did you sing out to him?

A. I asked him to slack up so I could throw off his line.

Q. What did he reply?

A. He replied no, that he would not; motioned with his hands that he would not let go.

Q. What else did you do?

A. I sent him a letter asking him if he would let go his lines.

Q. Have you got a copy of that letter?

A. No, I have not got it here. [345—10]

By Mr. LEWIS.—I offer to produce the original. Counsel for the Matson Navigation Company now makes offer to produce the original of that letter, the same being in the safe at his office.

By Mr. OLSON.—I now offer in evidence that letter, when produced, and ask that it be marked, when produced, "Claimant's Exhibit, Captain Henry, A."

Q. (To WITNESS.) What response did the Captain make to your letter?

(Deposition of John Henry.)

A. He made no response at all.

Q. Did you make any further approach to the captain in that regard?

A. Yes; I again sung out from the stern of my vessel to the tug and asked him if he was going to let go the line.

Q. What reply did the tug make?

A. He again made a motion with his hands and sang out "No," that he was not going to do it.

Q. What did you then do?

A. I sang out that I would cut his line if he did not slack up.

Q. Then what did you do?

A. Then he motioned with his hands again and said he was not going to let go, and shortly afterwards I cut his line.

Q. I will ask you what happened to the line when you cut it?

A. Well, we had to shove it out through the wharfing chock to get clear of it.

Q. It did not pull itself clear of the vessel of its own accord? A. No, it did not. [346—11]

By Mr. LEWIS.—Objection, on the ground that it is leading.

(Question and answer withdrawn.)

(By Mr. OLSON.)

Q. Why did you have to pull it off of the "Celtic Chief"?

A. We shoved it off, we did not pull it off.

Q. Why did you have to shove it off of the "Celtic Chief"? A. Because it would not go out.

(Deposition of John Henry.)

Q. I will ask you what strain there was on the line of the "Intrepid" at the time you cut it?

A. At the time we cut it there was very little strain on it.

Q. I will ask you whether or not you observed the line of the "Intrepid" from the time that it was placed aboard the "Celtic Chief" until it was cut by you, from time to time? A. Yes, I did.

Q. How much strain was there on that line while attached to the "Celtic Chief"?

A. There was not very much; not a great deal.

Q. How did you ascertain whether there was any strain on that line?

A. Well, I put my foot on it two or three times and it went right to the deck and there was very little strain on it.

Q. How high was the line from the deck?

A. I think it was about six inches; six or seven inches.

Q. What part of the line, the wire part or the manila hawser part? [347—12]

A. The wire part.

Q. When during the time that the "Intrepid's" line was attached to the "Celtic Chief" did that line have the greatest strain upon it, according to your observation?

A. Well, I could not say that; there was times when there was more strain on it than others; but I could not say when the greatest strain was on it.

Q. Take the line of the "Mauna Kea," did you observe that line during the time it was attached to

(Deposition of John Henry.)

the "Celtic Chief"? A. Yes, I did.

Q. State whether or not it had any strain upon it.

A. Yes, it had a good strain on it.

Q. Did you test that in the same way?

A. Yes, I tested it a few times.

Q. What about the strain upon the line of the "Mikahala"?

A. Well, there was not a great deal of strain on it; it was in the water most of the time.

Q. State whether or not you tested it in the same way. A. Yes, I did.

Q. What was the result of such test?

A. Well, you could not put it down the same as you could the towboat's line, but you could get a bit of slack on it.

Q. How long was that line attached to the "Celtic Chief," the line of the "Mikahala"?

A. About ten o'clock on Monday morning until the time the vessel came off.

Q. When did the vessel come off?

A. About twelve o'clock on Wednesday night.

Q. The libels of the various libellants state the time [348—13] that the "Celtic Chief" came off as twelve-twenty on the morning of Thursday, December 9th—what would you say as to the correctness of that?

A. She was afloat at twelve-twenty, but she was not off the reef at twelve o'clock.

Q. So that the statement, then, in your answer in which you deny that the vessel came off at twelve-twenty and your allegation that she came off at

(Deposition of John Henry.)

twelve o'clock is not exactly accurate?

A. No, it is not.

Q. Then approximately twelve-twenty on the morning of December 8th is about correct?

A. Yes, that is about correct as to the time she floated.

Q. December 9th? A. Yes, December 9th.

Q. What about the strain upon the line of the "Helene"?

A. There was a good bit of strain on it too; but at times there was not.

Q. Did you test that in the same way?

A. Yes, I did.

Q. What about the line of the "Likelike"?

A. There was not a great weight on it. It was in the water most of the time.

Q. Did you test that line in the same way?

A. Yes, but not so often.

Q. What was the result of those tests?

A. Well, any time I did try them there was not a great deal of strain on them.

Q. How could you tell that?

A. Well, if there was a good strain they would have been out of the water. [349—14]

Q. No, I asked of your test with the foot of the line of the "Likelike"?

A. If they had been towing I could not put that line down at all.

Q. Well, did you put it down? A. Yes.

Q. Was there any other vessels that had a line or lines aboard the "Celtic Chief"?

(Deposition of John Henry.)

A. No, none whatever.

Q. What about the German cruiser?

A. Yes, except the German cruiser.

Q. When did the German cruiser first come to the assistance of the "Celtic Chief"?

A. Twelve o'clock on Wednesday.

Q. What did she do?

A. She passed some small lines aboard to get a wire hawser.

Q. Whose wire hawser?

A. The ship's wire hawser.

Q. Yes, and then what?

A. After we got that aboard we got another small wire and rope out on to the starboard quarter of our ship. Our own wire was out from the port side and this wire and rope from the "Arcona," that was taken on the starboard side, and it was hove in and a good strain put on it to get the ship into position; and after he got it into position he started heaving on that ship's wire.

Q. Which ship's wire?

A. The "Celtic Chief's."

Q. What line was it that the cruiser put a strain upon? [350—15] A. On the ship's line.

Q. The "Celtic Chief's" line?

A. Yes, the "Celtic Chief's" wire hawser.

Q. Where was that wire hawser attached to the "Celtic Chief"?

A. Through the quarter-pipe and around the mizzenmast.

Q. What happened when she put a strain on that

(Deposition of John Henry.)

line? A. It carried away.

Q. Then what happened?

A. It was taken aboard the cruiser and spliced together again.

Q. Then what did the cruiser do?

A. It was brought back aboard the ship again, made fast, and there was another wire run out from the steamer which we took aboard our own ship and made fast around the mizzenmast.

Q. This other wire that you speak of, what kind of a wire was that? A. The cruiser's wire.

Q. It was the cruiser's wire, and what kind of a wire was it as to size?

A. It was a galvanized steel wire of four inches or four and a quarter inches.

Q. In circumference? A. Yes.

Q. What was the condition of the wire hawser belonging to the "Celtic Chief," which was used by the cruiser?

A. It was in good condition; it was a new hawser.

Q. What was the condition of the wire hawser belonging to the cruiser, which she used? [351—16]

A. It was in good condition as far as I could see.

Q. I will ask you to look at this piece of wire hawser which I now hand to you, and ask you if you recognize it. A. Yes, I do.

Q. What is it?

A. It is a piece of my wire hawser belonging to the ship.

Q. State whether or not that is a piece of the same wire hawser of the "Celtic Chief" which was used

(Deposition of John Henry.)

by the cruiser. A. Yes, it is the same wire.

Q. State whether or not the whole of that wire was the same as this sample.

A. Yes, the whole lot was the same.

By Mr. OLSON.—I offer this piece of wire in evidence and ask that it be marked "Claimant's Exhibit, Captain Henry, B."

Q. State whether or not the rest of the line was of the same size as this sample.

A. Yes, sir, the same size.

Q. What kind of wire is that?

A. Flexible steel wire.

Q. Where was it purchased? A. In England.

Q. What was the size of the cruiser's wire as used in towing of the "Celtic Chief," as compared with this size?

A. It was something similar to that, only I think it was a little larger, if anything.

Q. What time was it that these two wires, after the breaking of the ship's wire and the same having been spliced again, that both wires were placed aboard the "Celtic Chief" by the cruiser?

A. About five o'clock everything was made fast.

[352—17]

Q. Five o'clock on what day?

A. On Wednesday the 8th.

Q. Then what happened?

A. Kept on towing.

Q. State whether or not you observed whether there was any strain on that hawser.

(Deposition of John Henry.)

A. About six o'clock I saw they were getting a strain on them.

Q. How much of a strain did you observe upon these wires from that time on?

A. From that time on there was a good strain on them.

Q. Did you test them?

A. Well, I saw them about after eight o'clock; I saw them out of the water.

By Mr. LEWIS.—I move that the answer be stricken out as not responsive.

(By Mr. OLSON.)

Q. Did you test them?

A. No, I did not test them from the main deck.

Q. How could you tell whether or not there was any strain on them?

A. I could see the way they were out of the water.

Q. How were they out of the water?

A. Straight out of the water.

Q. When you say straight out of the water do you mean they were in a direct line from the ship to the cruiser? A. Yes.

Q. How long was that maintained?

A. Up to the time the vessel came off.

Q. Do you know the tensile strength of the wire of which [353—18] a sample has been placed in evidence? A. No, I do not.

Q. Do you know the tensile strength of the wire of the German cruiser? A. No, I do not.

Q. When did Captain Miller first come aboard the "Celtic Chief"?

(Deposition of John Henry.)

A. About eight o'clock on Monday morning.

Q. What did he do?

A. He asked me if I wanted any assistance.

Q. What did you say?

A. I asked him—he said he represented the Miller Salvage Company and that he had appliances for salving vessels here, and he pointed out to me that the best thing I could do was to lighten the ship.

Q. What did you say?

A. I agreed to it, that I ought to lighten the ship, and that it was the best thing I could do, and after a bit of consideration I agreed with him to get launches out and lighten the ship up.

Q. Was anything said as to terms?

A. Nothing said as to terms.

Q. What did he do?

A. After that he told me that if I had a large anchor we could get it out astern, and he said he had a large anchor, and I asked him how large this anchor was and he said it was a seven ton anchor, and he said if we could get it out he would bring it out and lay it out astern.

Q. What for?

A. To keep the vessel from going further on the reef. [354—19]

Q. Did he do that? A. Not at that time.

Q. When did he say to you that he would bring the anchor out? A. He did not state what time.

Q. Well, did he bring the anchor out, if at all?

A. He brought it out about nine o'clock on Tuesday night, and he wanted to run it out at that time

(Deposition of John Henry.)

but I would not have it.

Q. Why?

A. Because he was going to drop it on the quarter and would have taken the ship further on the reef, and I wanted the anchor right astern of the "Celtic Chief," not on the quarter at all. The anchor was run out the next morning about eight o'clock.

Q. When was the line from the anchor to the "Celtic Chief" made fast?

A. About two o'clock it was hauled tight and made fast.

Q. What date? A. On Wednesday afternoon.

Q. Where was it made fast on the "Celtic Chief"?

A. It was taken in with tackles, hove tight with tackles, large luff tackles, and these tackles were taken to the capstan on the forecastle head and the steam winch and hove as tight as they could be got.

Q. What kind of a line was that line?

A. It was a hawser.

Q. What kind of a hawser?

A. A manila hawser.

Q. How large? [355—20] A. Twelve inch.

Q. Did the whole of the line consist of a twelve-inch manila hawser?

A. I cannot say, but I believe there was a wire and chain attached to the anchor.

Q. Whose were the tackles that were used for the purpose of heaving in this line and making it taut?

A. Well, some belonged to the ship and some to the Miller Salvage Company, I believe.

Q. State whether or not those belonging to the

(Deposition of John Henry.)

ship were used in making the line taut and in maintaining such strain as was maintained on that line during the time that the anchor was attached to the vessel? A. Yes, I believe they were.

Q. Whose was the winch that was used in the same way? A. The ship's winch.

Q. Who ran that winch?

A. The carpenter of the ship and one of the boys.

Q. What is the name of the carpenter?

A. Sorensen.

Q. What is the name of the boy? A. Gordon.

Q. What is the rank of Gordon?

A. Senior apprentice.

Q. Who operated the hand capstan which was also used in heaving in on the tackles?

A. Captain Miller's men.

Q. Did you observe whether or not any strain was exercised upon that line?

A. On the line attached to the anchor? [356—21]

Q. Yes. A. Yes, there was a good strain on it.

Q. From what time?

A. From about four o'clock in the afternoon.

Q. Until when?

A. Until the ship came off or started to come off.

Q. I will ask you if you know how much strain in horse-power was exercised upon any of these lines?

By Mr. LEWIS.—OBJECTION, on the ground that it is indefinite.

By Mr. WEAVER.—FURTHER OBJECTION,

(Deposition of John Henry.)

on the ground that the witness has not been qualified as an expert.

By Mr. OLSON.—Well, I want to show that he does not know.

(OBJECTIONS withdrawn by counsel Lewis and Weaver.)

Q. Do you know that? A. No, I do not.

Q. In which direction from the “Celtic Chief” did the “Mikahala” pull?

A. She was on the starboard quarter.

Q. Starboard quarter astern do you mean?

A. Certainly, yes.

Q. What was the position of the “Intrepid” while she had a line attached to the “Celtic Chief”?

A. Right astern.

Q. What was the position of the “Helene” while she had her line attached to the “Celtic Chief”?

A. The port quarter of the ship.

Q. What was the position occupied by the “Mauna Kea” while she had her line attached to the “Celtic Chief”? A. Port quarter. [357—22]

Q. What was the position occupied by the German cruiser while she had her lines attached to the “Celtic Chief”? A. Right astern.

Q. It is alleged in the libels of the Inter-Island Steam Navigation Company and the Matson Navigation Company that the vessels of those two companies kept the “Celtic Chief” from going further aground—what do you know about that?

A. Well, by the positions or lights ashore, and the bearings ashore, the vessel did not go further aground.

(Deposition of John Henry.)

Q. What is that?

A. By the bearings we had there on shore the vessel did not go further aground.

Q. What do you mean by "the vessel," the "Celtic Chief"? A. Yes, the "Celtic Chief."

Q. Do you know according to your own observation whether or not she did go further ashore?

A. I could not tell exactly whether she went any further in or not.

Q. What else did the Miller Salvage Company do besides assisting you with the anchor of which you have spoken? A. Lightened the cargo.

Q. When?

A. On Monday from about ten o'clock in the morning up till one o'clock on Tuesday morning. Between that time they were stopped for a time; they were not working constant all that time.

Q. How did they lighter cargo from the "Celtic Chief"?

A. They passed it by hand and threw it into the lighters.

Q. What lighters?

A. The lighters belonging to the Miller Salvage Company. [358—23]

Q. Do you know the names of those vessels?

A. The "Mokolii," "Concord," and "James Makee," all those three.

Q. Do you know which of those were used?

A. The three of them were used.

Q. How much cargo did the Miller Salvage Company lighter?

A. About two hundred and sixty tons.

(Deposition of John Henry.)

Q. What did they do with that cargo?

A. Landed it ashore.

Q. Why did they stop on Tuesday night?

A. They could not put any more in the "James Makee"; she was the only one alongside; the other two were loaded and they could not put any more in the "James Makee," and then he went away and he promised to lighter us the next morning but there was no more turned up at daylight.

Q. Was any lightering done by any other person or company?

A. Yes, the "Helene" and "Mikahala," by their boats.

Q. When did they lighter?

A. About ten o'clock on Tuesday until the ship came off.

Q. Constantly? A. Not constantly, no.

Q. When were they not lightering from the times you have stated until the vessel came off?

A. Tuesday night they were not working all night.

Q. How much did they lighter?

A. About four hundred tons.

Q. What did they do with it?

A. Took it ashore and landed it on the wharf.

[359—24]

Q. What wharf? A. The Inter-Island wharf.

Q. How many tons of cargo did you have aboard the "Celtic Chief"?

A. Two thousand five hundred and fifty-seven tons, English tons.

Q. Of what?

A. Of fertilizer, spirits and marbles.

(Deposition of John Henry.)

Q. How many cases of marbles?

A. Five cases.

Q. How many tons of fertilizer?

A. Two thousand five hundred and forty-seven.

Q. And the balance of the cargo was spirits?

A. Yes.

Q. How did the Inter-Island vessels lighter cargo from the "Celtic Chief"?

A. From the "Celtic Chief" to the steamers with their own boats.

Q. How did they get it into their own boats?

A. By the cargo gear that was rigged aloft and the steam put on the ship's boiler and it was hove up by the steam and lowered into the boats and put aboard the steamers.

Q. That is, your own steam winch was used?

A. Yes, our own steam winch was used up to the time the vessel came off.

Q. It is alleged in the libel of the Inter-Island Steam Navigation Company that a donkey-hoist and barge were used by them in the course of the operations—state whether or not you know anything about that?

A. From four o'clock on Wednesday afternoon it was used. [360—25]

Q. Until she came off?

A. Yes, until she came off.

Q. How were they used—what for?

A. For heaving the cargo up.

Q. For the purpose of lightering?

A. Yes, for the purpose of lightering.

Q. How was the weather during the time that the

(Deposition of John Henry.)

“Celtic Chief” was on the reef?

A. The weather was fine the whole time.

Q. What was the condition of the sea about the “Celtic Chief”?

A. There was a little swell at times and then again it was quite smooth.

Q. State whether or not there was any danger to any one of the vessels or appliances used in the course of the salvage operations.

A. No danger at all.

Q. State whether or not there was any danger to any of the persons who were engaged in the salvage operations. A. None at all; no.

Q. State whether or not there was any danger to the appliances used by the Miller Salvage Company in lightering the cargo.

A. No, there was no danger.

Q. Was there any danger to any of the persons employed by the Miller Salvage Company in lightering cargo? A. No, none whatever.

Q. State whether or not there was any danger or risk to any of the appliances used by the Inter-Island Steam Navigation Company for lightering the cargo.

[361—26]

A. No, none whatever.

Q. State whether or not there was any danger or risk to any of the persons employed by the Inter-Island Steam Navigation Company in lightering cargo. A. No, none whatever.

Q. When did you first begin to notice any motion on the part of the “Celtic Chief,” after she went ashore? A. Any motion?

(Deposition of John Henry.)

Q. Yes.

A. The first motion we got would be after eleven o'clock on Wednesday night.

Q. What did you observe then?

A. The ship seemed to be freer and working more.

Q. Who besides your own officers and crew connected with the salvage operations were on board the "Celtic Chief" from eleven o'clock on Wednesday night until she came off, or about that time?

A. There was Captain Haglund, Captain Miller and the officers of the German cruiser.

Q. Which officers? A. The first officer.

Q. What about the captain?

A. The captain was aboard too at that time.

Q. What happened when you observed that the "Celtic Chief" was beginning to move, on Wednesday night about eleven o'clock?

A. What did I observe?

Q. Yes, what happened when you observed she was beginning to move?

A. Later on we saw that she was making way, working off the reef. [362—27]

Q. What did the officers of the German cruiser do?

A. They fired stars up in the air to let them know aboard the cruiser that she was moving.

Q. Did you observe the lines of the German cruiser from that time on? A. Yes, I did.

Q. What was their condition as to the strain?

A. They were tight, right out of the water at that time.

Q. Straight out of the water?

A. Yes, straight out of the water.

(Deposition of John Henry.)

Q. When did she come off?

A. About twelve o'clock.

Q. Might have been shortly after twelve?

A. Yes, I could not say for a few minutes.

Q. Who was pulling on the "Celtic Chief" at the time she began moving and until she came off?

A. There was the cruiser "Arcona" and Captain Miller taking in the slack of his line from the anchor and the three tugs from the Inter-Island.

Q. The three steamers, you mean?

A. Yes, three steamers rather.

Q. Did you observe the lines of the Inter-Island boats? A. No, I did not observe them at that time.

Q. What happened when she came off?

A. After the vessel was afloat?

Q. Yes.

A. The lines were cut away and the cruiser towed her out into deep water, towed the vessel out.

Q. And then what happened?

A. Then the "Likelike" took us to an anchorage after [363—28] the cruiser let go.

Q. How did the "Likelike" happen to take her to an anchorage after the cruiser let go?

A. I had arranged with Captain Haglund before that, that when the cruiser could not take her into the anchorage, I asked Captain Haglund if he would tow the vessel in.

Q. State whether or not the "Celtic Chief" was in a place of safety at the time the cruiser let go of her.

A. Yes, she was.

Q. What was the nature of the service performed by the "Likelike" in towing her to an anchorage?

(Deposition of John Henry.)

By Mr. LEWIS.—Objection, on the ground that it is incompetent, irrelevant and immaterial, and a question calling for a conclusion of the witness.

A. (By WITNESS.) The usual towage.

(By Mr. OLSON.)

Q. State whether or not there was any danger or risk to the "Celtic Chief" at the time she was aground other than that of simply being aground on the reef. A. No other danger; no.

By Mr. MAGOON.—Objection, on the ground that it is unintelligible, and calls for a conclusion of the witness and the answer could not benefit anyone in the case.

By Mr. LEWIS.—I object to it, on the ground that it is double; it is partially leading and otherwise incompetent, irrelevant and immaterial. I represent the Inter-Island Steam Navigation Company and the Matson Navigation Company, and I would like to [364—29] have it understood between counsel that when I take an objection it is on behalf of both the Inter-Island Steam Navigation Company and the Matson Navigation Company, and any motion I make it is on behalf of both people.

By Mr. MAGOON.—It is agreeable.

By Mr. OLSON.—All right.

By Mr. LEWIS.—In other words, that objections, exceptions and motions made by Mr. Lewis, counsel for both the Inter-Island Steam Navigation Company and the Matson Navigation Company apply for both libellants, the Inter-Island Steam Navigation Company and the Matson Navigation Company.

(Deposition of John Henry.)

By Mr. OLSON.—That is agreeable to counsel for claimant.

By Mr. MAGOON.—That is agreeable to the Miller Salvage Company.

(By Mr. OLSON—To Witness.)

Q. State whether or not there was any immediate danger to the “Celtic Chief” while she was lying aground on the reef.

By Mr. MAGOON.—OBJECTION, on the ground that it calls for a conclusion, and which is for the court to consider, and on the further ground that it is incompetent, irrelevant and immaterial.

By Mr. LEWIS.—OBJECTION, on the ground that no proper foundation has been made, and that it calls for a conclusion by the witness.

A. (By WITNESS.) No immediate danger, no.
(By Mr. OLSON.)

Q. State whether or not you know what the general condition of the reef was on which the “Celtic Chief” went aground at the place of stranding.

A. Soft coral and sand, I believe. [365—30]

By Mr. WEAVER.—I move that it be stricken out on the ground that it is hearsay.

By Mr. LEWIS.—I join in that motion.

By Mr. MAGOON.—And on the further ground that it is indefinite and does not state positively or give any information on which he makes the answer.
(By Mr. OLSON—To Witness.)

Q. While the “Celtic Chief” was ashore on the reef did she make any water?

A. No, none whatever.

Q. Was any injury done to the “Celtic Chief”

(Deposition of John Henry.)

while on the reef?

By Mr. LEWIS.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and not the best evidence, and no proper foundation laid for it.

By Mr. MAGOON.—OBJECTION, on the same ground.

(By Mr. OLSON—To Witness.)

Q. I will amend that question by adding—"To your knowledge"?

I renew my objection to the question as made.

A. (By WITNESS.) There was deck damage, that was all.

(By Mr. OLSON.)

Q. Deck damage consisting of what?

A. Consisting of the poop rails being broken away.

Q. How was that broken away?

A. By the "Mauna Kea's" towing line; also the wharfing chock. [366—31]

Q. How was that torn away?

A. By the "Mauna Kea's" line.

Q. What caused them to be torn away by the "Mauna Kea's" line?

A. A sudden jerk, I expect.

Q. What was the power that caused them to be broken away by the "Mauna Kea's" line—what vessel did it? A. Which vessel did it?

Q. Yes. A. The "Mauna Kea."

Q. Was there any other damage done?

A. Yes, the mast was damaged, the mizzenmast.

Q. How?

A. By the "Mauna Kea's" towing line.

(Deposition of John Henry.)

Q. Caused by what?

A. Caused by the "Mauna Kea."

Q. What was the nature of the "Mauna Kea's" line at the end which was attached around the mast?

A. The nature of it?

Q. Yes, what was it, wire or manila hawser?

A. Manila hawser.

Q. Was any other damage done?

A. Yes, the boat davits badly bent.

Q. How were they bent?

A. By one of Captain Miller's launches.

Q. Doing what? A. Getting alongside.

Q. For what purpose?

A. Lightering the cargo.

Q. And other damage? [367—32]

A. No damage; no.

Q. To your knowledge was there any damage done to the vessel by the contact of the vessel with the reef?

A. Slight damage.

Q. Where? A. On the bottom.

Q. What did that damage consist of?

A. A dented plate.

Q. Is that all? A. Yes, that is all.

Q. Was there any damage done to the cargo?

A. No damage done to the cargo; no.

Q. Was there any damage done to the cargo in lightering it? A. Yes, there was a little.

Q. What?

A. There was a loss of cargo as the bags were badly burst.

Q. State whether or not the "Celtic Chief" between the time that she went aground and the time

(Deposition of John Henry.)

that the German cruiser put her lines aboard was moved seaward. A. No, she was not.

Q. What is the name of your first officer?

A. John James Lowry.

Q. Your second mate? A. J. L. Brisco.

Q. Were they your first and second mate respectively during the time that the "Celtic Chief" was ashore on the reef?

A. Yes, they were. [368—33]

Q. What wind was blowing at the time the "Intrepid" first came to the assistance of the "Celtic Chief"? A. There was no wind.

Q. No wind? A. No; no wind.

Q. From that time on during Monday was there any wind? A. A light air now and then.

Q. How about Monday night?

A. Monday night there was no wind.

Q. Tuesday?

A. Tuesday there was a light air off the land in the afternoon, I think.

Q. Tuesday night?

A. No wind on Tuesday night.

Q. Wednesday?

A. Wednesday there was light airs.

Q. And Wednesday night?

A. Wednesday night there was very little wind; in fact, it was very fine weather all the time we were on.

Q. What was the condition of the wind from eleven o'clock on Wednesday night until the "Celtic Chief" came off the reef? A. Light southerly, I think.

Q. Was it blowing hard?

A. No, very light.

(Deposition of John Henry.)

Q. Could you be sure about that direction?

A. I would not be quite certain; no.

Q. What was the condition of the weather from the time the "Celtic Chief" came off until the next morning when she was towed to an anchorage? [369—34]

A. Fine weather.

Q. What time was it that the "Likelike" began to tow the "Celtic Chief" from the position of safety of which you have spoken to an anchorage?

A. Two o'clock.

By Mr. LEWIS.—I object, on the ground that it is incompetent, irrelevant and immaterial, and indefinite.

(QUESTION, ANSWER AND OBJECTION WITHDRAWN.)

(By Mr. OLSON—to Witness.)

Q. At what time on Thursday morning the 9th day of December, 1909 did the "Likelike" start to tow the "Celtic Chief" to an anchorage?

A. It was not the "Likelike," it was the "Maui."

Q. Well, the Inter-Island vessel that was moved?

A. Yes, nine o'clock.

Q. And at what time was she brought to an anchorage? A. Three o'clock on Thursday morning.

Q. Now what was the condition of the weather during that operation? A. The weather was fine.

Q. Was any damage done to any of the Miller Salvage Company vessels that you know of?

A. Not that I know of.

Q. Was any damage done to any of the Inter-Island Steam Navigation Company's vessels, that you know of? A. Not that I know of.

(Deposition of John Henry.)

Q. To the "Intrepid"?

A. Not that I am aware of.

Q. State during what period or periods of time while [370—35] the "Celtic Chief" was ashore did you sleep. A. I slept none at all.

Q. You slept none at all? A. No.

Q. You were awake from what time until the vessel came off?

A. Saturday morning before I entered the harbor.

Q. Until the "Celtic Chief" came off? A. Yes.

Q. Where were you during all that time?

A. On deck most of the time with occasionally down below for a few minutes.

Q. Were you ever off of the "Celtic Chief" during that time? A. No, I was not.

Q. Were any of your officers off of the "Celtic Chief" during that time? A. No.

Q. Or any members of your crew off of the ship during that time?

A. None of them at all were off the ship.

Q. How many members of your crew besides your officers did you have? A. Twenty-five all told.

Q. Including officers?

A. Yes, including officers.

Q. How many officers were there?

A. Two officers.

Q. Besides yourself? A. Yes, besides myself.

[371—36]

Q. And in addition to that a ship's carpenter?

A. Ship's carpenter and sailmaker.

Q. And how many apprentices?

A. Six apprentices.

(Deposition of John Henry.)

Q. Captain, when do you expect to sail from Honolulu? A. Within this next seven days.

Q. Bound for where? A. I cannot say.

Q. Leaving the territory?

A. Yes, leaving the territory.

Q. Where was all this cargo that the "Celtic Chief" had on board bound for?

A. For Honolulu.

Q. Has that been discharged?

A. Yes, it has all been discharged.

Q. Where is the "Celtic Chief" at the present time? A. Lying at the Hackfeld wharf.

Q. In the port of Honolulu?

A. Yes, the port of Honolulu.

Q. How long have you held a master mariner's papers?

A. Ten years, master mariner's papers.

Q. How long have you been master of the "Celtic Chief"? A. Two years in May.

By Mr. OLSON.—SUBJECT to the production and placing in evidence of the letter which has been referred to, and I now leave the witness to the cross-examination.

By Mr. LEWIS.—I wish the record to show that counsel for the libelants are agreeable to that letter being placed in evidence, subject [372—37] to any objection that may be made when produced.

By Mr. OLSON.—Counsel are agreeable to my offering that letter in evidence tomorrow?

By Mr. LEWIS.—As far as the Matson Navigation Company and the Inter-Island Company are concerned, I make no objection and will deliver the letter.

(Deposition of John Henry.)

(At 3:50 P. M. adjournment was taken until 9 o'clock to-morrow morning at the office of the Clerk of the United States District Court.)

Friday, January 28th, 1910 (9 A. M.)

The parties in the above-entitled case met, pursuant to adjournment, at the office of the Clerk of the District Court of the United States, and immediately adjourned to the courtroom of Judge De Bolt, where the following proceeding was had:

By Mr. LEWIS.—IT IS HEREBY STIPULATED AND AGREED that all objections and motions made by A. Lewis, counsel for the Matson Navigation Company and the Inter-Island Steam Navigation Company shall be for the benefit of both of said Libellants, and shall apply to all witnesses in this case.

By Mr. OLSON.—That is agreeable to me.

By Mr. WEAVER.—That is agreeable to us.

By Mr. LEWIS.—Pursuant to the request of counsel for claimant I now [373—38] produce the letter signed by Captain Henry of the "Celtic Chief" to Captain MacAlister of the tug "Intrepid," being Claimant's Captain Henry's Exhibit "A," heretofore referred to.

(By Mr. OLSON—to Witness.)

Q. I now show to you this document which has just been produced by counsel for the Matson Navigation Company, which is entitled "Captain Henry, 'Celtic Chief,' 8th December, 1909," and signed by yourself—I will ask you if you recognize that document? A. Yes, I do.

Q. What is it?

(Deposition of John Henry.)

A. It is the letter I sent aboard the tug "Intrepid," to the captain of the tug "Intrepid."

Q. That is, is it not, the letter to which you have already referred in your testimony yesterday?

A. Yes, that is the letter I referred to.

By Mr. OLSON.—I now offer that letter in evidence and in accordance with my offer of yesterday ask that it be marked Claimant's Exhibit, Captain Henry, "A."

Cross-examination by Mr. LEWIS.

Q. Your appearance off the harbor of Honolulu, say on or about the 5th day of December, 1909, was your first voyage to the Hawaiian Island, was it not?

A. Yes, it was.

Q. You were thoroughly unacquainted then with the conditions that existed about the port of Honolulu?

A. I was not unacquainted; I had my charts.

Q. But outside of your charts you had no acquaintance of [374—39] the port of Honolulu?

A. My book of directions.

Q. Your book of directions? A. Yes.

Q. But you have had no personal experience about the port of Honolulu? A. No.

Q. From your own personal knowledge?

A. No, not from my own personal knowledge.

Q. Referring now to the time, to that time of the salvage operations, about eleven, twelve and one o'clock, being the evening of December 8th and the morning of December 9th, when the "Celtic Chief" was pulled off the reef, I will ask you whether or not it was eleven o'clock when you first noticed motion,

(Deposition of John Henry.)

that is, peculiar motion.

A. No, it was after eleven o'clock.

Q. How much after eleven o'clock.

A. Well, I could not just exactly tell you.

Q. Well, approximately what was the time, was it about half-past eleven?

A. About twenty past eleven, I think.

Q. Twenty minutes past eleven?

A. About that time, I cannot say exactly.

Q. What were the indications of motion—how did this motion manifest itself, that is, was the boat working a little freer in her bed?

A. You could feel the ship moving.

Q. How long after that time was it that you could detect any particular movement seaward, and if you could not detect a movement seaward what were the indications that you noticed [375—40] which led you to believe that the boat was moving seaward?

A. By the bearings ashore I could see that the ship was moving.

Q. When did you first notice from your observations by bearings on the shore that the "Celtic Chief" was moving seaward?

A. Shortly before twelve o'clock.

Q. Approximately how much before twelve?

A. That is a very hard thing for me to say as I did not have a watch in my hand.

Q. Well, as near as I gather from your testimony it was very near twelve o'clock? A. Yes.

Q. From that time that you first noticed the movement seaward was the movement thereafter rapid or slow? A. Slowly.

(Deposition of John Henry.)

Q. Did you again take any bearings to ascertain how much she had moved seaward?

A. The two lights in one and I saw them separated from each other.

Q. When was that time that you noticed these lights separating—how much after the first time that you took your bearings?

A. About five or seven minutes.

Q. The “Celtic Chief” came off the reef very slowly, didn’t she? A. Yes, she did.

Q. As I understood you in your direct testimony, you said that it was in the neighborhood of twenty minutes past twelve when you thought that she was afloat and off of the reef? [376—41]

A. Twenty minutes past twelve when the vessel was afloat.

Q. There were times, were there not, from the time that you first noticed this seaward movement until she finally came off when the ship remained absolutely stationary and did not move at all, is not that correct—in other words, she did not leave the reef all with one motion, that is, there was a starting and a stopping, and a start and a stop before she finally got off—that is correct?

A. I could not say as to that.

Q. Well, what is your impression from your experience there?

A. She moved, moved very gradually all the time and she must—it takes a good bit for a ship to move and to alter two lights and change their position.

Q. What arrangements, if any, did you have with the captain or the executive officer of the “Arcona”

(Deposition of John Henry.)

in regard to these rockets which were exhibited or shot off there on that evening, about the time when the boat came off?

A. I could not explain that now, I think they are written out in a book somewhere but I cannot remember that.

Q. Well, in a general way it was something like this, was it not, that at one period of the operation one rocket was to be shot off to designate that she was moving, and later on rockets were shot when they thought she was finally off, or something to that effect? A. Some arrangements like that.

Q. Something generally along that character?

A. Yes.

Q. In other words, the firing of the first rocket did [377—42] not mean that the vessel was off or clear of the reef and afloat?

A. No, I think the first one was that the ship was moving.

Q. You don't remember any signal being given for the boats, by rockets, to begin to pull or anything of that kind? A. Not by rockets; no.

Q. What time was it that the search-light from the "Arcona" was flashed upon the stern of the "Celtic Chief" that evening?

A. That I cannot say; I cannot say as to that.

Q. That search-light was played, was it not, at half-past eleven on that evening? A. Yes, it was.

Q. And played continuously thereafter until the ship came off, didn't it? A. Yes, it did.

Q. Probably playing before half-past eleven too, was it not?

(Deposition of John Henry.)

A. Yes, I believe it was. The time it started I could not say.

Q. You have said in your direct examination that certain persons were on the "Celtic Chief" at the time that she floated off, and I presume also that you include in that the period for an hour or so, or half an hour, before she came off—you stated that these persons were Captain Haglund, and Captain Miller, the captain and officers of the German cruiser "Arcona," I now ask you if, in addition to those persons which you have named, certain men employed by the Inter-Island Steam Navigation Company were not also there who had been working cargo. [378—43] A. That is correct, yes.

Q. Do you know the names of the officers of the Inter-Island boats or steamers, outside of Captain Haglund, who were there?

A. No, I do not know anyone except Captain Haglund.

Q. He is the only one you know?

A. Yes, he is the only one I know.

Q. And as far as you know there were certain persons connected with the Inter-Island Steam Navigation Company who had to do with the lightering of the cargo on the "Celtic Chief" about that time?

A. Yes, about that time.

Q. You have stated that at the time the ship "Celtic Chief" came off Captain Miller or the Miller Salvage Company had attached to the "Celtic Chief" a hawser or line which was attached to an anchor which had been previously laid out—you said that there was a hawser attached and you thought that

(Deposition of John Henry.)

there was some wire and chain attached to the anchor—I now ask you to tell me by just what means this anchor of Captain Miller's was attached to the "Celtic Chief," as near as you can remember.

A. It was attached to large luff tackles.

Q. You say that it was attached by a hawser—now was there any other line outside of this hawser by which the anchor was attached to the ship—that is, leading from the anchor to the ship. In other words, I understand that the anchor was attached solely to the ship by a hawser—that is, the hawser led from the anchor and after it approached the ship it was attached to the ship by lines and tackles—that is correct, is it not? [379—44]

A. Yes, that is correct.

Q. Did you notice the size of that hawser?

A. I did, yes.

Q. What was it? A. A twelve-inch manila.

Q. And that was the situation which you have just described that existed between the anchor and the ship during all the times that anchor was in use on that occasion, simply one hawser?

A. One hawser from the anchor; yes.

Q. You said that there was a strain on that hawser from some time in the afternoon, late in the afternoon of the 8th of December until the ship came off, in your direct examination; did you take particular notice of that hawser and was that strain continuous?

A. From the time it was made fast, yes.

Q. You also said that during the evening and at the time that the ship was floated Captain Miller took in the slack from this hawser—I will ask you

(Deposition of John Henry.)

to explain just how that was done.

A. By heaving on the hand capstan on the fore-castle-head and also by the ship's steam winch.

Q. How often did they use the steam winch?

A. That I cannot say.

Q. You have testified in your direct examination that those about the ship, and the servants of the Inter-Island Steam Navigation Company were working cargo the afternoon of the 8th and up to and including the time that the ship came off—you have also stated that in performing that work, that the steam winch of the "Celtic Chief" was used?

[380—45] A. Yes, I did.

Q. You have only one steam winch on board?

A. I have only got one steam winch, yes.

Q. So that it was the same steam winch which was working cargo which was being transferred by the Inter-Island boats, which you also used in taking up the slack of Captain Miller's line?

A. That is right.

Q. Well, then, Captain, how much of the time would you say was used in transferring the cargo and how much of the time was the steam winch used in connection with the hawser of Captain Miller?

A. That I cannot say. I can work two falls from my winch, the one working cargo and the other heaving luff tackles tight. I can work cargo and heave tackles tight at the same time.

Q. You say that you can do it?

A. Yes, I can.

Q. Well, what I want to know is, did you do it on

(Deposition of John Henry.)

that evening? A. Yes, I believe I did.

Q. Were you heaving in on that hawser and also working cargo at the same time, from the same side?

A. Not from the same side, no. I have a drum end on each side of the house and I can work a rope from each drum.

Q. On what side of your winch—from what side of your winch were you working Captain Miller's tackles? A. From the starboard side.

Q. From which side were you working the winch to discharge the cargo? [381—46]

A. The port side.

Q. All the time during that afternoon and evening of the 8th and 9th?

A. Yes, the port side; we were working from the after hatch. We were working cargo from the after hatch and leading from the port side of the ship to the steam winch.

Q. During the afternoon and evening of the 8th and 9th a scow was anchored on the port side of the "Celtic Chief," was it not? A. Yes, it was.

Q. On that scow was a winch, was it not?

A. Yes, that is so.

Q. By means of that winch tackle had been prepared and lines so that you worked the after hatch of the "Celtic Chief" by means of the winch which was on the barge, is not that correct?

A. No, it is not.

Q. Well, which hatch did you work with the winch on the barge?

A. The main hatch; the donkey-barge was right

(Deposition of John Henry.)

abreast of the main hatch and the main hatch was worked.

Q. I am not an engineer and I would like to have you explain to me how you could use the same winch in working cargo and also at the same time, the very same time that you were working the cargo heave in or take in the slack on the hawser of Captain Miller.

A. Well, I am not an engineer myself, but still we can work two ropes from the winch and keep it going all the time, keep the winch going all the time.

Q. Well, there would be times in which you would be [382—47] working on the cargo and then working intermittently working on the winch as well which was attached to the hawser?

A. Well, they had that heaving up fall to the port side of the donkey winch and when the bags were high enough there was another man to take in the slack of another tackle, and the man at the steam winch only had to let go his fall and the winch would heave away at the same time. When he wanted to heave the bags out of the hold he would take a round turn around the barrel of the winch.

Q. Well, when the winch is revolving and the power is being applied to the winch, that is one motion, rapidly for a few minutes or seconds, then a stop and a jerk, a lowering, so that the power that is being applied on that winch is not constant when you are working cargo—that is correct, is it not?

By Mr. OLSON.—OBJECTION to the question, on the ground that it is unintelligible. (QUESTION WITHDRAWN.)

(Deposition of John Henry.)

(By Mr. LEWIS.)

A. When you are working cargo the speed of the winch at all times during the period of taking the bags from the hold and landing it out into the boat is not exactly the same, is it?

A. If you like to put enough steam on, yes; if you put plenty of steam on it will be the same.

Q. Well, the fall is attached to the bag in the hold, is it not, from which you lighter your cargo?

A. Yes.

Q. The power is applied to that fall and the cargo was dragged to a certain height above the deck of the steamer? [383—48]

A. Yes, quite so.

Q. Then you stop your winch?

A. No, I do not.

Q. It is going continuously all the time?

A. Yes, going continuously all the time.

Q. The same speed?

A. I don't know exactly about the same speed; I cannot say as to that.

Q. Well, if you start working cargo at, we will say, eleven o'clock up to twelve o'clock, then from what you say I understand that your steam winch is running with the same amount of power and the same amount of speed during these times and with no cessation?

A. I don't say the same amount of power; there might be more steam and there might be less steam at times. You cannot keep a constant steady power of steam on all the time.

Q. Well, what does the man do who operates the

(Deposition of John Henry.)

winch and how is the winch operated in discharging cargo?

A. How is the winch operated in discharging cargo?

Q. Just tell me exactly what the man does who operates the winch, when he discharges cargo?

A. Well, all he has to do is to turn the steam on.

Q. Well, what is the next thing he does?

A. He does not do anything at all; stands at the winch there and if anyone sings out that he wants to stop, they stop.

Q. Then he does stop sometimes?

A. Yes, if anyone wants him to stop.

Q. Well, what would he stop for—would there be anything in the raising of the cargo from the hold and discharging it would cause him to stop? [384—49]

A. Not at the time we were working because we had a fall to the end of the winch and when the bags were high enough out of the hold all the man had to do at the winch was to throw his fall off the barrel of the winch.

Q. You were not heaving in constantly with this tackle attached to Captain Miller's line during the afternoon and evening, were you?

A. Not all, no.

Q. Do you know what time you did begin to use the steam in heaving on Captain Miller's line?

A. That I cannot say; they were at it a good many times but did not take much notice at the time when they used it.

Q. Well, it was not continuous?

(Deposition of John Henry.)

A. No, it was not.

Q. And how much of the time you say you cannot say? A. No, I cannot say.

Q. Well, can you say whether it was much or little? A. It was a good bit.

Q. Do you know when it began, this heaving on Captain Miller's line?

By Mr. OLSON.—OBJECTION, on the ground that it is answered already.

A. (By WITNESS.) It was in the afternoon some time, but which time I cannot say. The steam had been used before I knew anything at all about it, before I knew they were using it.

(By Mr. LEWIS.)

Q. Referring now to the time that the vessel stranded, I will ask you whether or not after she stranded you set up any signals to the effect that you wanted assistance?

A. Yes, after I went on the reef. [385—50]

Q. What time did you set up those signals?

A. About three o'clock.

Q. And those signals, what were those signals?

A. Blue lights, flare-ups.

Q. In the morning was there any intimation made by you that you wanted assistance?

A. No, not after daylight.

Q. You did want assistance, didn't you after daylight? A. Yes, I did.

Q. This conversation that you had with Captain MacAlister in regard to the employment of the "Intrepid"—that did not take you very long did it?

A. No, it was not a great deal of time.

(Deposition of John Henry.)

Q. Did not take more than five minutes?

A. Yes, it did.

Q. About how long? A. About ten minutes.

Q. Well, how long was it from the time that Mac-Alister came alongside with his boat until he had his hawser fast?

A. From a quarter of an hour to twenty-minutes.

Q. A quarter of an hour to twenty minutes?

A. Yes.

Q. When the "Celtic Chief" went on the reef was there any swell running? A. Very little.

Q. As a matter of fact, the place where you stranded, is not there more or less swell running there all the time?

A. Well, when the vessel was on the reef there was times when there was no swell at all.

Q. What amount of sail did you have on the "Celtic [386—51] Chief" when you first struck the reef?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination and further on the ground that it is incompetent, irrelevant and immaterial.

By Mr. LEWIS.—I will state that the purpose of this question all goes to show the peril in which the ship was in at that time; that if the vessel drifted on her peril was one condition, and if she went on with sails set, showing the manner in which she went on, the force which acted upon her to put her further on the reef, are certainly relative and material, as showing the conditions of peril of the ship.

By Mr. OLSON.—I repeat the OBJECTION.

(Deposition of John Henry.)

A. (By WITNESS.) Six topsails.

(By Mr. LEWIS.)

Q. How long did the sails which you had on the "Celtic Chief" when you struck the reef remain set?

A. As soon as I touched the reef. How long did they remain set? (QUESTION WITHDRAWN.)

Q. After the "Celtic Chief" struck the reef how long did your sails remain set?

By Mr. OLSON.—I make the same OBJECTION as before.

A. (By WITNESS.) I took them off as soon as we struck the reef. The anchor was dropped as soon as we struck the reef and the sails were taken off the ship.

(By Mr. LEWIS.)

Q. What time did you strike the reef? [387—52]

A. At two-thirty, about that time.

(By Mr. MAGOON.)

Q. A. M.? A. Yes. A. M.

(By Mr. LEWIS.)

Q. How long was it after you struck the reef that all your sails were taken in?

By Mr. OLSON.—I make the same OBJECTION.

A. (By WITNESS.) I don't suppose it was any more than a quarter of an hour.

(By Mr. LEWIS.)

Q. After you first struck the reef what was the movement of the ship as to her going further on?

By Mr. OLSON.—I make the same OBJECTION.

(By Mr. LEWIS.)

Q. Was there anything by which you could tell how far she went on after she struck?

(Deposition of John Henry.)

By Mr. OLSON.—I make the same OBJECTION.

A. (By WITNESS.) No, I cannot tell that.

(By Mr. LEWIS.)

Q. Did she go further on after she struck?

A. She may have went a bit, yes.

Q. Did the swell, whatever there was out there on that morning of December the 5th, the morning that you went on, have any effect in putting her further on? A. It would help a little.

Q. You were asked many questions about the wind by your [388—53] counsel, but I do not remember what your answer was as to what the wind was on the morning of December 6th—was there any wind blowing at that time when you struck?

A. No, there was not.

Q. None at all?

A. Might have been a light air.

Q. Enough to fill your sails?

A. No, not at that time.

Q. The “Intrepid” you said took hold in the neighborhood of seven o’clock, I believe, about half-past seven? A. Yes, about that time.

Q. She was attached by means of a hawser continuously to your ship, during the day of the 6th—that was Monday? A. Yes.

Q. And also Tuesday? A. Yes.

Q. Monday night and also Tuesday night?

A. Yes, that is right.

Q. And Wednesday up to, as you have testified, along about noon? A. That is right.

Q. Well, now during all the times that the “Intrepid” was attached by means of this hawser to the

(Deposition of John Henry.)

"Celtic Chief" up to, we will say, six o'clock A. M. of Wednesday, did you make any complaint of Captain MacAlister about how he was pulling or how he was maneuvering the Tug "Intrepid"?

A. There was once or twice that I sang out to him that he was not doing much.

Q. When was that?

A. I cannot say that. [389—54]

Q. Was that at high tide or low tide or was it in the daytime or night-time? A. In the daytime.

Q. Do you remember the condition of the tide at that time? A. No, I cannot say that.

Q. You think then that it was two or three times that you told him that?

A. Twice, yes, that I sung out to the tugboat.

Q. By what means did you sing out—did you have a little trumpet there or sing out with an instrument?

A. At that time I sang out from the stern of the poop.

Q. Just sang out? A. Yes.

Q. A tug operating with her propeller makes some noise does she not? A. I suppose so; yes.

Q. You don't know whether or not Captain MacAlister heard you, do you?

A. Well, there was some one heard me on board.

Q. You did not send him any written message or anything of that kind? A. No.

Q. Did you give him any written orders at all?

A. No.

Q. Or did you give him any orders whatever up to six A. M.? A. No, I gave him no orders.

Q. The "Intrepid" was attached directly astern of

(Deposition of John Henry.)

the "Celtic Chief," was she not? [390—55]

A. Yes, awhile she would be a little bit on the quarter and awhile she would be right on the stern when she moved about.

Q. That is, her general direction was directly astern, moving to starboard and port? A. Yes.

Q. Being a tug she had no anchor and consequently moved back and forth in the stern to the direction of port and starboard? A. Yes, that is so.

Q. What did the Young Brothers' launch do?

A. What did the Young Brothers' launch do?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

A. (By WITNESS.) He passed his line aboard.
(By Mr. LEWIS.)

Q. What did he do after he passed his line aboard?

A. Started to tow.

Q. With the launch? A. Yes.

Q. How long did he tow?

A. That I cannot say; his line carried away a few times.

Q. What was the size of the line?

A. That I cannot say.

Q. Do you know anything about the power or style of this launch? A. Know nothing at all about her.

Q. How long was he engaged with this business of pulling on this line? [391—56]

A. About two hours.

Q. What was the size of the line?

A. I told you I did not notice.

Q. Was it his line or your line?

A. It was his line.

(Deposition of John Henry.)

Q. A big line or a little line?

A. Well, I think it would be about a four-inch line.

Q. You say you think he pulled about two hours, after that did he do any more pulling?

A. No, he did not do any more pulling.

Q. That is at no time thereafter during the salvage operations? A. No.

Q. A letter has been introduced in evidence here which you wrote to the tug "Intrepid," to the master of the tug "Intrepid," or delivered to the tug "Intrepid," and you have also stated that the conditions on which the "Arcona" would pull on the "Celtic Chief" were that the tug "Intrepid" must be taken away?

By Mr. OLSON.—OBJECTION, on the ground that it improperly states the testimony of the witness, his testimony being not that the "Intrepid" must be taken away but she must yield her position to the cruiser, and the letter showing definitely itself that the "Celtic Chief" was perfectly willing to give the "Intrepid" another position. (QUESTION WITHDRAWN.)

(By Mr. LEWIS.)

Q. You stated in your examination apart from the letter which has been introduced that the conditions upon which the cruiser "Arcona" would pull, and the only condition upon which [392—57] she would pull was that the tug "Intrepid" be taken out of the position in which she was lying at that time—that is correct, is it not?

A. Well, the condition is I had the offer of that cruiser and unless I got the position clear for her he

(Deposition of John Henry.)

could not, he would not pass his line aboard the ship.

Q. Well, in other words, I understand your arrangement with the captain of the cruiser "Arcona" was that he would not pull on the "Celtic Chief" unless the "Intrepid" was taken away from the position in which she was then pulling—is not that correct?

A. That is correct, yes.

Q. Now, did you not say or state to Captain MacAlister that those were the conditions on which the "Arcona" would pull, did you?

A. No, certainly not, I had no reason to do so.

Q. Prior to the time or just prior to the time that the cruiser came out there on Wednesday morning Captain Miller came out with the "James Makee," did he not, which was being towed at that time by the "Mokolii"—is not that correct?

A. I do not know which vessel was towing her, but it was the "James Makee" that was out there, but which vessel was towing her I know nothing at all about.

Q. There were two vessels that approached the Celtic Chief," one of which was the "James Makee," and she was being towed by another vessel?

A. Yes, that is so.

Q. That is the correct situation? A. Yes.

Q. As they approached the "Celtic Chief" they came in [393—58] between the positions occupied by the "Helene" and the "Intrepid," didn't they?

A. Quite so, yes.

Q. The "Intrepid" at that time moved over towards the "Mikahala," didn't she?

A. Yes, close alongside the "Mikahala."

(Deposition of John Henry.)

Q. Do you know how far from the "Mikahala" she was? A. She was close alongside.

Q. Now, by that move the anchor was placed which you have heretofore testified to?

A. By that move, yes.

Q. There was then plenty of room between the tug "Intrepid" as she then lay and the "Helene" for the "James Makee" being towed by the "Mokolii" to turn around, drop the anchor and go out without any danger to the "James Makee," the "Mokolii" the "Intrepid" or the "Helene"; that is correct, is it not?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

A. (By WITNESS.) The "James Makee" never was turned round.

Q. The "Mokolii" was turned round?

A. Yes, but astern of the "Intrepid."

Q. Well, the operation was successfully carried on? A. Yes.

Q. Without danger to any of the vessels?

A. Yes, quite so.

Q. And there was plenty of room to carry on the operations, [394—59] was there not, after the tug "Intrepid" moved over?

A. Yes, after the tug "Intrepid" moved over, but there was not room to operate two vessels in tow.

Q. Well, one of the vessels turned round in that space?

A. No, outside the stern of the "Intrepid," or rather ahead of the "Intrepid"; her head was pointing to the southward.

(Deposition of John Henry.)

Q. Well, it was very close to the position where the "Intrepid" lay?

A. No, it was a good bit off from the "Intrepid."

Q. That anchor was dropped off the "James Makee," was it not?

A. Yes, that anchor was dropped off the "James Makee," I believe.

Q. Now, when the anchor was being dropped off the "James Makee," the "James Makee" at that time was a trifle astern of the "Intrepid," was she not?

A. When the anchor was dropped?

Q. Yes.

A. Ahead of the "Intrepid"; further to the south.

Q. But she was not very far distant from the "Intrepid"?

A. I could not say what distance there was, but it was a good bit.

Q. Well, by distance I mean distance ahead of the "Intrepid"—she was not a great distance ahead of the "Intrepid" was she?

A. No, not a great distance.

Q. After the anchor was dropped the "James Makee" was pulled in towards the "Celtic Chief," was she not?

A. Towards the stern of the "Celtic Chief"; yes.
[395—60]

Q. The line of the "Intrepid" was still fast at that time and the "Intrepid" was still working, was she not?

A. The tow-line was slack; there was no weight on the line at all. It was simply lying in the water.

Q. Her propeller was moving, was it not?

(Deposition of John Henry.)

A. I cannot say that.

Q. Well, she was still occupying a position alongside or near the "Mikahala" with her hawser attached to the "Celtic Chief" at the time that the "James Makee" pulled in towards the stern of the "Celtic Chief"?

A. Her hawser was aboard but she was not doing any good.

Q. And there was plenty of room to carry on that operation with the "Intrepid" attached as she was at the time? A. To run the anchor out; yes.

Q. When the "Intrepid" moved over towards the "Mikahala" and occupied the position which you say that she did, was there anything to have prevented the "Intrepid" from pulling from that position which she occupied after she moved over?

A. Not if she had pulled alongside another vessel, and I never saw a tug do that; I do not see how she could do that lying alongside another ship.

Q. Well, granting that the tug "Intrepid" had to move over a trifle away from the "Mikahala" could she not then have successfully pulled from that position and allowed plenty of room to run the line from the German cruiser "Arcona" in between her and the "Helene"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination, [396—61] the testimony of the witness being that the cruiser required the position which was occupied by the "Intrepid" before she would put a line aboard the "Celtic Chief."

A. (By WITNESS.) No, there was not enough

(Deposition of John Henry.)

room to run the line.

(By Mr. LEWIS.)

Q. What is that?

A. No, there was not enough room to run the lines. They would have had to have had one on each side of the "Intrepid." There was two lines put out from the cruiser and if the "Intrepid" had kept in the position these wire hawsers would have had to have been one on each side and that would not do; you could not pass them out that way, one on each side of a small tug that is going from one side to the other of the ship.

Q. That statement you have made applies, would apply if the "Intrepid" had not changed her position at all, would it apply to the position which the "Intrepid" afterwards took, nearer the "Mikahala"?

A. Well, it applied because he would have got his propellers foul of the wires; he could not have kept in one straight position all the time; he would have been moving back and forth.

Q. Could not he have operated his vessel in that position and kept her clear of the cruiser's wire, if he kept close to the "Mikahala"?

A. No, he could not.

(At 10:45 A. M. the parties took a recess of five minutes.)

Q. Captain Henry, I wish that you would take a pencil and paper and outline to me here roughly the position of the [397—62] steamers and the tug as they existed at the time that the "Arcona" came out to the scene of the stranding on the morning of Wed-

(Deposition of John Henry.)

nesday December the 9th? (Hands paper to witness.)

A. Well, I would rather not do it. I do not see why I should do that. (Draws on paper.)

Q. Captain Henry, you have, pursuant to my request, drawn on a piece of paper the positions of the "Celtic Chief", with the "Mauna Kea," tug "Intrepid," "Helene" and "Likelike" pulling on her at the time that the "Arcona" appeared upon the scene on Wednesday morning—relative to this diagram I desire to call your attention to the words "Mauna Kea" appearing thereon and ask you whether or not it is not true that the "Mauna Kea" was not there at the time, but that the steamer "Helene" was there?

A. The "Helene" was there, yes. The "Mauna Kea" was not there. She took the "Mauna Kea's" position.

Q. So you now cross out the "Mauna Kea"?

A. Quite so; yes.

Q. In addition to what you have already drawn here will you kindly designate the approximate position of the anchor placed by the Miller Salvage Company? A. (No answer, draws on paper.)

By Mr. OLSON.— I OBJECT to the question, on the ground that no proper foundation has been laid therefor, it not appearing that the captain knows the exact position where the anchor was laid.
(By Mr. LEWIS.)

Q. In pursuance of counsel's objection I will ask you to place the position of the anchor on there if you do know approximately where it was. [398—63]

A. I do not know the position of the anchor; I do

(Deposition of John Henry.)

not know where he dropped it; I can only tell you the lead of the line.

Q. Well, after that anchor was dropped there was a line, was there not, run from that anchor to the ship? A. Quite so; yes.

Q. Well, as near as you can, draw the position of the anchor with reference to your knowledge from the fact of the line running towards the ship?

By Mr. OLSON.—SAME OBJECTION, on the ground that it does not appear that the captain knows where the anchor was laid.

(By Mr. LEWIS.)

Q. I further ask you whether or not, after the anchor was dropped, a buoy was not placed to note the position of the anchor?

A. Yes, I believe there was a buoy.

Q. Well, with reference to that buoy and the line as it came aboard the "Celtic Chief" from the anchor, place the position of the anchor according to your best knowledge.

By Mr. OLSON.—OBJECTION to the question, on the ground that no proper foundation has been laid, it not appearing that the captain knows where the anchor was laid. If you ask him to designate where the buoy was which he saw you can then find out where the anchor was.

(By Mr. LEWIS.)

Q. You knew where the buoy was situated, didn't you? A. Not exactly.

Q. You saw the buoy? [399—64] A. Yes.

Q. Taking into consideration where you saw the buoy, place the position of the buoy upon the paper.

(Deposition of John Henry.)

A. (Drawing on paper.) —a little further ahead of the "Intrepid."

Q. On this paper you have designated the "Celtic Chief," a circle representing the "Celtic Chief," by the words "Celtic Chief"? A. That is right.

Q. A circle representing the "Mauna Kea" by the words "Mauna Kea," a circle representing the tug "Intrepid" by the words "Tug Intrepid," a cross by the word "Buoy," the steamer "Helene" by the word "Helene"? A. Yes.

Q. And the "Likelike" by the circle and "Likelike"? A. Yes.

By Mr. LEWIS.—I now offer this paper in evidence and ask that it be marked "Libellant Inter-Island Steam Navigation Company and Libellant Matson Navigation Company Exhibit No. 1." (Received as Mr. Lewis' Libellants' Exhibit No. 1.)

Q. I will now ask you, Captain Henry, to designate on this plan the position of the German cruiser "Arcona" when she was finally attached to the ship "Celtic Chief"? A. (Draws on paper.)

Q. Will you kindly draw a long black line through the designation of the "Celtic Chief"?

A. (Draws on paper.)

Q. And I will ask you to designate that line by two letters, A and B. A. (Marks paper A and B.)

[400—65]

Q. What do you mean to designate by that line A and B—what is your idea in drawing that line A and B?

A. That is the line that the ship was on, the fore and aft line of the ship "Celtic Chief."

(Deposition of John Henry.)

Q. The letter "A" representing the position towards the sea and the letter "B" representing the position towards the land? A. Yes.

Q. Pursuant to my request you have drawn a circle and marked the circle "cruiser," you have also drawn two lines between the circle marked "cruiser" and the circle marked "Celtic Chief," and I will ask you now what that is supposed to represent.

A. The wire hawser of the "Arcona."

Q. And that also represents the position of the "Arcona," relative to the "Celtic Chief" while she was pulling? A. While she was pulling; yes.

Q. And after she was finally placed in position?

A. After she was finally placed in position; yes.

Q. What was the approximate distance between the tug "Intrepid" and the "Mikahala" before the "Arcona" was placed in her position—that is, what was the position of the tug "Intrepid" before the "Arcona" came out there on the morning of the 8th of December?

A. What was her position, the distance between those two vessels, I cannot say.

Q. Give us your best knowledge.

A. About fifty feet; less than that at times.

Q. In the position which you have drawn the "Intrepid" on this diagram and the "Mikahala," what would you say would [401—66] be the difference in feet between the two vessels?

By Mr. MAGOON.—(To Mr. LEWIS.) Give us the time.

By Mr. LEWIS.—Prior to the appearance of the "Arcona"?

(Deposition of John Henry.)

A. (By WITNESS.) Between fifty and sixty feet; the distance between the "Mikahala" and the tug.

Q. That is as you have there drawn it?

A. Yes, as I have there drawn it.

Q. What was the distance between the tug "Intrepid" and the "Helene" as you have there drawn it and prior to the time that the "Arcona" appeared?

A. That I would have no idea.

Q. Well, approximately?

By Mr. OLSON.—OBJECTION, on the ground that the captain says he has no idea.

(By Mr. LEWIS.)

Q. As you stood on the stern of the "Celtic Chief" and looked out on these vessels you must have formed some idea as to the relative distances between the two—now kindly give us your best knowledge of the distance between the two vessels, which I have just heretofore named, namely, the "Intrepid" and the "Helene."

A. Well, there would be more than was between the "Mikahala" and "Intrepid."

Q. About how much?

A. Thirty or forty feet, according to my judgment; that is all I can say.

Q. Thirty or forty feet?

A. Yes, according to my judgment.

Q. Well, let me direct your attention to your testimony [402—67] when you say that the "Intrepid" was distant from the "Mikahala" between fifty and sixty feet and you say that the "Helene" was a little further from the "Intrepid" than was the

(Deposition of John Henry.)

“Mikahala”? A. Yes.

Q. And when you say the distance between the “Helene” and the “Intrepid” you place it only thirty or forty feet, while you place the distance between the “Mikahala” and “Intrepid” as only forty or fifty feet?

(By Mr. OLSON.)

Q. Well, I don’t understand that; I understand that he said the distance was more.

A. (By WITNESS.) Yes.

(By Mr. LEWIS.)

Q. Is that correct? A. Yes.

(Previous question of Mr. Lewis withdrawn.)

Q. The position occupied by the cruiser as you have shown on the map here is in advance and towards the sea of all the vessels pulling?

A. Quite so; yes.

Q. When the cruiser came out she placed her anchors or her anchor up to a position towards the left of the letter “A” which you have designated on the diagram and then dropped back into the position which you have there designated—is that correct?

A. Where she dropped her anchor I don’t know. She would drop her anchors to the right or ahead of her position.

Q. You think, then, that her anchor was dropped ahead of the position and towards the letter “A” rather than to the [403—68] left of the letter “A”? A. Yes.

By Mr. MAGOON.—Well, I OBJECT, unless the captain knows whether she dropped her anchor.

Q. Do you know whether she dropped her anchor?

(Deposition of John Henry.)

A. Certainly she did; yes.

Q. You saw it? A. Yes, I did.

(By Mr. LEWIS.)

Q. Will you kindly tell me why it was not possible for the cruiser to have taken a position a little towards the right of the position occupied by the position which you have now located on this map?

A. No, it would not have done.

Q. Why not?

A. Because she would not have got the same strain on the wire hawsers.

Q. Why not?

A. Because she was not in a fore and aft line with the "Celtic Chief," and, therefore, she could not get the same strain on each line.

Q. How much more would she have had to move towards the right to have lost that position which you have stated?

By Mr. OLSON.—OBJECTION to the line of cross-examination, on the ground that it is improper cross-examination and that it is incompetent, irrelevant and immaterial, as the captain's statement of the reason for the cruiser being able or not being able to take one position or another has nothing to do with the position that was actually taken by the cruiser, nor the [404—69] reasons for her taking that position, the testimony being that the cruiser insisted upon the position directly astern occupied by the "Intrepid" before putting a line aboard.

By Mr. LEWIS.—In reply to counsel's objection I will here state at this time that the question asked by counsel for libellant also goes to the point of show-

(Deposition of John Henry.)

ing the spirit under which the German cruiser undertook her salvage operations at this particular time, the selfish and uncalled for position, and my endeavor is to show that the German cruiser could have attached herself with perfect safety to the ship "Celtic Chief" and still have left room for the tug "Intrepid."

By Mr. OLSON.—I make the same OBJECTION.

A. (By WITNESS.) That I cannot say. I cannot say how much she would have had to move.

(By Mr. LEWIS.)

Q. She could however, have taken the position which I have just mentioned with perfect safety to herself, could she not?

By Mr. OLSON.—OBJECTION, on the ground that it is indefinite; I don't know to what the question refers.

A. That I cannot say.

(By Mr. LEWIS.)

Q. When the German cruiser appeared on the scene the tug, "Intrepid" did actually move, didn't she, from the position which you have designated here, over towards the position which you have designated by the "Mikahala"?

A. She was moved, yes. [405—70]

Q. And that is also true, is it not, of the situation as it existed at the time that the Miller Salvage Company laid the anchor—didn't the "Intrepid" move over from that position to the position occupied by the "Mikahala"?

A. She was not there constantly; she was back and forth all the time.

(Deposition of John Henry.)

Q. Well, he occupied a position nearer than this to the "Mikahala"?

A. Sometimes he did and sometimes he did not; he was moving back and forth.

Q. Well, in his movements back and forth at the time when the "James Makee" and the "Mokolii" came in here he did not interfere with the working of the "James Makee," did he?

A. That I cannot say.

Q. You did not see him interfere?

A. I was there on the poop and saw it all but I did not see any interference.

Q. And it was shortly before the "Arcona" came out that the "Mokolii" came out with the "James Makee" in tow, and the "James Makee" was placed in a position between the "Intrepid" and the "Helene" and gradually drawn up close to the "Celtic Chief"?

A. She was drawn up close to the "Celtic Chief."

Q. And at the time I have mentioned, just shortly before the "Arcona" came out?

A. Good bit before.

Q. Well, it was during the morning that the "Arcona" came out?

A. Yes, during the morning. [406—71]

Q. You have stated in your direct examination that when the line of the "Intrepid" was cut, that it did not immediately leave the vessel?

A. No, that is right.

Q. And you stated that your impression from that occurrence was that there was no strain on the line at all?

A. Well, there was not much.

(Deposition of John Henry.)

Q. That was at a time, was it not, when the "Intrepid" was up close to the "Mikahala"?

A. No, not at that time.

Q. How far was she from the "Mikahala" when you actually cut the rope?

A. That I cannot say.

Q. Approximately—was she close to it or far away?

A. She was close to the "Mikahala" but I cannot say how far.

Q. Well, if that is the case, what did you cut the line at all for, why didn't you simply take it out of the chocks and throw it overboard?

A. I could not take it off the top of the bitt; it was a wire with an eye and the tug might go ahead and snap some of the men's fingers while they were getting it off.

Q. Well, why didn't you simply take it off the bitt and throw it over, there was no strain on the line?

A. Well, if the tug went ahead what would have happened?

Q. Well, there was no strain before that and you could simply have lifted it out of the bitts?

By Mr. OLSON.—OBJECTION, on the ground that it has been asked and answered, the Captain saying that it was unsafe to do so. [407—72]

A. (By WITNESS.) Well, I could not say that the tug might not have gone ahead while we were trying to get it off of the bitts and endangered some of the men; perhaps got their hands cut off. If the tug went ahead what would have happened at that time?

(Deposition of John Henry.)

Q. As a matter of fact, I presume the reason you cut it was because you wanted to get it out of the way quickly?

A. Well, I gave him plenty of warning to get it out of that before.

Q. Well, I presume the reason was that you wanted to get it out of the way quick as possible, and that was the quickest way?

A. No, cutting it was not the quickest way.

Q. What was the quickest way?

A. If he had slacked down we could have thrown it off the bitts.

Q. During the course of your direct examination you also stated that there was no strain upon the "Mikahala's" line, or not much strain on the "Mikahala's" line, but a little more than the "Intrepid," but not a great deal of strain—did you at any time make any request of the "Mikahala" to increase her towing, the speed of her towing and increase the strain? A. No, I did not.

Q. You have also made some statement as to the "Likelike"—what was the condition of her lines?

A. Her line was in the water most of the time.

Q. Did you make any request of her at any time?

A. No.

Q. You were anxious to get the ship off, were you not? A. Yes, I was. [408—73]

Q. Well, you did not notice these lines all the time?

A. No, not all the time.

Q. You also stated that there was some damage done by the "Mikahala" to your rail?

A. No damage done by the "Mikahala."

(Deposition of John Henry.)

Q. Oh, yes, by the "Mauna Kea."

A. That is so.

Q. To your rail? A. Yes.

Q. What else? A. The wharfing chock.

A. And also the mizzenmast? A. Yes.

Q. Will you kindly tell me how that damage occurred—what was the cause of the damage—how did it happen? A. Well, by the strain on the rope.

Q. The strain placed on the rope by the "Mauna Kea"? A. Quite so; yes.

Q. You do not wish to infer by that that there was a lack of seamanship on the part of the "Mauna Kea," do you, when that was done—it was simply one of the incidents which occurred in pulling, and that she was using her best efforts to pull the ship off and that damage was the result?

A. Well, it could not have been a steady strain or it would not have broken that twelve-inch manila; it must have been a jerk.

Q. Well, it must have been the result of the jerk?

A. I suppose so; yes.

Q. As to the line which went to the cruiser "Arcona," your line, a portion of it was introduced in evidence and [409—74] marked "Captain Henry's Exhibit B"—was that a new line or an old line?

A. A new line. It never had been used.

Q. Do you remember where this line broke?

A. I cannot tell where it broke, but it broke between the "Arcona" and the "Celtic Chief."

Q. You have stated that the ship was attached—that the cruiser was attached to the ship by two lines—what was the size of those lines?

(Deposition of John Henry.)

A. Four and a half.

Q. Wire? A. Wire; yes.

Q. Did you see the whole length of those lines?

A. Yes, I saw the whole length of them.

Q. You did not go on board the cruiser to ascertain how they were fastened there?

A. No, I never was off the ship.

Q. During the time that the "Arcona" was attached to your ship—she was pulling in the early afternoon of the 8th was she not?

A. That is right, yes.

Q. And at that time she parted this line which you have introduced in evidence here?

A. Quite so; yes.

Q. That you say was in the early part of the afternoon, later on in the afternoon after this line was parted did she do any more pulling?

A. Yes, certainly.

Q. When did she begin pulling again after she parted this line? [410—75]

A. About six o'clock. They started to get her hawsers—to get an equal strain on her hawsers about that time.

Q. Now, give me the best idea as to when this line parted, that you have introduced in evidence.

A. Between two and three o'clock.

Q. How long had she been pulling prior to that time? A. That I cannot say.

Q. Had she been pulling any length of time?

A. No, not a great length of time.

Q. As a matter of fact, when she got her first steady strain on the hawsers before she had been pull-

(Deposition of John Henry.)

ing any length of time at all, didn't the hawser break?

A. I don't know whether she had been pulling any length of time then or not.

Q. Well, when was the—when were the lines of the German cruiser for the first time finally made fast and taut to the “Celtic Chief” ready for pulling?

A. The two lines, the two wires, or just the one?

Q. Whatever way you want to take it—the first time that the “Celtic Chief” was made fast to by the cruiser ready for pulling, whether it was one or two lines—what I am getting at now is the first time, the first attempt to pull, made by the “Arcona” on the “Celtic Chief”? A. About two o'clock.

Q. Was there one or two lines at that time?

A. One line from the “Celtic Chief” and another light wire to get her into position, not for towing, but to get the vessel in position.

Q. Do I understand you, in that attempt was everything prepared ready for pulling? [411—76]

A. Yes, everything was prepared.

Q. At what time in the afternoon?

A. About two o'clock.

Q. And after everything was prepared and ready for pulling how long did she pull—when did she begin to pull?

A. I cannot tell you when she began to pull.

Q. Then after the line was prepared ready for pulling when did the line break?

A. It broke about three o'clock, between two and three o'clock; I did not take the time.

Q. Between the time that the line was prepared ready for pulling and the time that the line broke, did

(Deposition of John Henry.)

you notice the line between the "Celtic Chief" and the "Arcona" to observe whether or not the "Arcona" was pulling?

A. I saw it tighten up certainly.

Q. You saw it tighten up? A. Yes, I did.

Q. How long was that after the line was prepared ready for pulling that you saw it tighten up?

A. I cannot say.

Q. What is that?

A. I cannot say; about twenty minutes or half an hour.

Q. How long was it after this first line was broken before the next attempt was made by the "Arcona" to make lines fast to the "Celtic Chief"?

A. The next attempt was shortly after the line carried away.

Q. What did the officers of the cruiser then do towards making a line fast—did they put on one line or is that the time they put on the two lines? [412—77]

A. This time they started to put on the two lines, and they ran their own wire hawser while they were getting ours spliced.

Q. Now, these two lines that you are speaking about, do I understand you that was wire that belonged to the ship or to the cruiser?

A. I said before that one wire belonged to the ship and one to the cruiser.

Q. Well, you said something about one being spliced, which was the line that was spliced?

A. It belonged to the "Celtic Chief."

(Deposition of John Henry.)

Q. That was spliced on to the line of the "Arcona"?

A. No, the two broken parts were spliced together, of the wire.

Q. Then you took two pieces of wire belonging to the "Celtic Chief" and spliced them together and that furnished one of the lines by which the cruiser pulled on the ship? A. Yes, that is right.

Q. Whose property was the other wire?

A. The cruiser's.

Q. Do you know whether as a matter of fact your spliced line led entirely the whole distance between the "Celtic Chief" and the cruiser?

A. No, I believe that we bent on another wire afterwards, after they had it spliced.

Q. After they had it spliced it was bent to another wire and that wire was attached to the cruiser?

A. Yes.

Q. The size or condition of that wire you don't know?

A. Don't know anything about that. [413—78]

Q. Now, take the other wire of the German cruiser, do you know whether that led entirely from the cruiser to the "Celtic Chief"?

A. Yes, it did; all one wire.

Q. You don't know how that was attached on board the cruiser? A. No, I do not.

Q. You don't know whether that was spliced or not? A. Know nothing at all about that.

Q. With reference to this strain which was exercised by the "Arcona" upon the two lines, which was the second attempt made by the "Arcona" to pull on

(Deposition of John Henry.)

the "Celtic Chief," as I understand your testimony you said that the strain began at six o'clock on the 8th.

A. She started to get her wires tight; at five o'clock they made fast with the hawsers aboard the "Celtic Chief" and after that she started to heave in on them and get an equal strain on them.

Q. How long did this heaving in process continue, that is, this process to get the lines set?

A. I could not say.

Q. Approximately?

A. That I cannot tell; but I could tell better if I had been aboard the "Arcona"; but I could not tell aboard my own ship.

Q. With reference to the lines as they appeared approaching aboard the "Celtic Chief."

A. At eight o'clock they were quite tight.

Q. How about the time between six and eight?

A. You could see them at times, that the men aboard the [414—79] cruiser were working with them to get an equal strain on them.

Q. Well, this process of heaving in between six o'clock and eight o'clock P. M. was the process of heaving to get the lines in position to pull, or set for pulling?

A. To get an equal strain on them; yes.

Q. Well, take from eight o'clock P. M. when you say that you noticed a strain upon the lines, was there any intimation which you noticed from eight o'clock P. M., on and after which indicated that the cruiser was pulling on those lines?

A. Yes, certainly; I could see the lines standing right out of the water.

(Deposition of John Henry.)

Q. Then, as I understand you, this is the time which you had reference to in your direct examination when you stated that the wires between the "Celtic Chief" and the "Arcona" were like an iron bar across?

A. I don't think I mentioned anything about iron bars in it.

Q. Well, I will withdraw that—that was the time when you then said that it was like a straight line across? A. Yes, quite so.

Q. That there was no dip or fall to the line?

A. There may have been an occasional dip, I would not say as to that, but any time I noticed there was always a steady strain on them and the lines straight out of the water.

Q. There was no search-light playing from dusk until nine-thirty P. M. was there?

A. Until when?

Q. Until nine-thirty.

A. That I cannot say. [415—80]

Q. There was not any at nine-thirty on that evening, was there? A. I cannot say when it started.

Q. Well, to the best of your recollection, when was the first time you remember the search-light being played on that night?

A. About ten o'clock, I think; it may have been on before that but I cannot say.

Q. At any time after six o'clock did you notice any movement at the stern of the "Arcona" which led you to believe that she was working her engines?

A. No, I did not.

Q. What is that?

(Deposition of John Henry.)

A. No, I did not notice any. I do not know whether she was working her engines or not.

Q. Well, as far as you know, you don't know and you won't swear that she worked her engines and moved her propellers after six o'clock on the night of the 8th? A. I would not swear to that; no.

Q. At the time that the "Celtic Chief" came off the reef did you notice the cruiser "Arcona"?

A. Yes, I did.

Q. Is it not true that when the "Celtic Chief" was finally afloat from the reef and off the reef that the lines of the "Likelike" and "Helene" were first cut and then the third line to be cut was that of the "Mikahala"? A. That is quite right; yes.

Q. When the "Celtic Chief" came off the reef after she was floated, and immediately after she was floated, didn't she approach very close to the stern of the "Arcona"? [416—81]

A. Not very close, no.

Q. She did not? A. No.

Q. As the "Celtic Chief" came off the reef didn't the relative distance between the "Arcona" and the "Celtic Chief" lessen?

A. Yes, certainly it lessened.

Q. How much did that distance lessen?

A. That I cannot say.

Q. Was not the "Arcona" directly astern of the "Celtic Chief"? A. Yes.

Q. And if the "Arcona" had been pulling at the time would not the relative distance between the stern of the "Celtic Chief" and the stern of the "Arcona" remain practically the same?

(Deposition of John Henry.)

By Mr. OLSON.—I will admit, and I take that an admission dispenses with the necessity of proof, I will admit that when the “Celtic Chief” came off the reef that the distance between the “Celtic Chief” and the “Arcona” very materially diminished, and that the “Arcona” did not go forward immediately.

By Mr. LEWIS.—I don’t care for that admission.

By Mr. OLSON.—I, therefore, OBJECT to any further examination tending to show any such condition of affairs at that time.

By Mr. LEWIS.—I am very sorry that this very line of testimony pinches so but I certainly submit that I have a right to have it. [417—82]

By Mr. OLSON.—I OBJECT to the question further, on the ground that it calls for a conclusion of the witness; the facts are what we want and not the witness’ opinion. I OBJECT further, on the ground that no proper foundation has been laid for the question, it not appearing from any testimony whatever that Captain Henry knows that the “Arcona” was exerting power upon these lines by means of her propeller.

A. (By WITNESS.) She may have been pulling on the ship but not with her propellers.

(By Mr. LEWIS.)

Q. I repeat my question to you and ask that you give me a responsive answer.

By Mr. OLSON.—The same OBJECTION that I made before. (Question read to witness.)

A. (By WITNESS.) If she had been pulling with her propellers, going ahead with her propellers, she may have kept the same distance. I believe she

(Deposition of John Henry.)

was not; her propeller was not used and that it was her windlass that she was heaving on, on her own anchors.

(By Mr. LEWIS.)

Q. You were not on board the "Arcona" that night? A. No.

Q. At this particular time in the salvage operations when the "Celtic Chief" was moving away from the reef after she was afloat, give me your best judgment in accordance with your knowledge of the situation, how close the "Celtic Chief" came to the stern of the "Arcona."

A. About the same distance as the "Intrepid" was when [418—83] she was towing.

Q. What would you say, Captain Henry, was the approximate distance between the stern of the "Celtic Chief" and the stern of the "Arcona" when the "Arcona" was attached to the "Celtic Chief," just before the "Celtic Chief" came off?

A. The distance between the two ships?

Q. Yes. In other words, what was the length of wire between the stern of the "Celtic Chief" and the stern of the "Arcona" during the latter part of the salvage operations? A. That I cannot say.

Q. Well, approximately—what is your best judgment? A. Before the vessel's coming off?

Q. Yes; before the vessel came off.

A. That I cannot say; I have no idea.

Q. You said that one of these lines which was attached between the "Celtic Chief" and the "Arcona" was one of your lines? A. Yes, that is so.

Q. Well, haven't you any idea of how large or

(Deposition of John Henry.)

what was the length of that line?

A. These lines were carried away and I did not know how much was carried away.

Q. Well, when his line was—when your line was paid out, when you gave it to the “Arcona,” haven’t you any idea how much line you gave out which afterwards furnished the connecting link between the “Arcona” and the “Celtic Chief”?

A. There was another line attached to our line from the cruiser, and how much they had out I do not know.

Q. Well, I misunderstood you in endeavoring to find out the component parts of one of those lines; I understood [419—84] you to say that one of the lines was made up by making a splice on your own line and that the other line was made up by the cruiser’s line—now, you tell me that the line which was formed by two splices of your line was not the whole length of that line and that there was an additional part of that line, to wit, a portion of the cruiser’s line—is that correct?

A. After the two ends were spliced together where it carried away you could not expect it to be the same length as what it was before.

Q. Well, you took two of your lines and spliced them together? A. Yes.

Q. Now, in addition to that, as I now understand you, in order to make one towing line you had to attach a line which belonged to the cruiser “Arcona”—is that correct? A. Yes, that is so.

Q. To make one line between the “Arcona” and the “Celtic Chief”? A. Yes.

(Deposition of John Henry.)

Q. That is right? A. Yes.

Q. Now, as to the other line, that was a line which was the property entirely of the "Arcona"—is that correct? A. Yes, that is correct.

Q. Well, getting back to line No. 1. What was the length of that portion of that line formed by a splicing of your two lines?

A. I would say about one hundred and fifty fathoms approximately, but I don't know for certain.
[420—85]

Q. Well, have you say any idea how much more wire from the cruiser "Arcona" was used to make up that line No. 1? A. No, I have no idea.

Q. You were on the poop of the "Celtic Chief" when the line was run over to the "Arcona"—I presume that it was run on a boat or a launch, and you could see, could you not, how far your spliced line extended from the stern of the "Celtic Chief" towards the stern of the "Arcona"—could you not see that?

A. No, I could not. I do not know how far it extended; it extended right aboard the ship, the whole length.

Q. Aboard what ship?

A. Aboard the "Arcona."

Q. Well, now, you tell me in order to make this one line you had to get an attachment from a piece of a line on the "Arcona"?

By Mr. OLSON.—OBJECTION, on the ground that it has been answered half a dozen times. It is very clear that two pieces of his line were spliced together, and as Captain Henry thinks there was an

(Deposition of John Henry.)

additional piece from the cruiser put on the line.

(By Mr. LEWIS.)

Q. Well, give me the best impression that you have, how near the line made up of your two splices approached the "Celtic Chief."

A. It was aboard the "Celtic Chief."

Q. And whether or not it was aboard the "Arcona"?

A. And went aboard the "Arcona," and there was another wire shackled on to it from there, to lead it wherever they were taking it. [421—86]

Q. I think I can clear up this by this question—at what point was the wire of the "Arcona" made fast to the wire of the "Celtic Chief"—was it at a point between the "Celtic Chief" and the "Arcona" or was it after the line of the "Celtic Chief" was carried aboard the "Arcona"?

A. I think I just told you it was after it went aboard the "Arcona."

Q. What was the relative distance between where the stern of the "Intrepid" was and where the stern of the "Arcona" was when they were both attached?

A. I cannot say that; it is very hard for me to judge. I could not say that.

Q. Well, the "Arcona" occupied a position considerably in advance and seaward of the position occupied by the "Intrepid"?

A. Yes, that is so.

(Adjournment was here taken until 9 o'clock tomorrow morning, to the Chambers of the Second Judge of the United States District Court.)

(Deposition of John Henry.)

Saturday, January 29th, 1910. (9 A. M.)

The parties in the above-entitled cause met, pursuant to adjournment, at the Chambers of the Second Judge of the United States District Court, and by agreement adjourned immediately to the courtroom of the said court, where the following proceedings were had:

Continued Cross-examination of CAPTAIN
HENRY. [422—87]

(By Mr. LEWIS.)

Q. After the search-lights were turned on, on the evening of December 8th, did you notice the lines attached to the "Mikahala," the "Helene" and the "Likelike"?

A. Well, I did notice them but I did not take much notice of them.

Q. Well, round along about eleven o'clock, was there a strain upon those lines at that time?

A. I could not say.

Q. You don't know? A. No, I could not say.

Q. When did the Captain and executive officer of the German cruiser "Arcona" come aboard the "Celtic Chief" on the evening of December the 8th?

A. Before eleven o'clock.

Q. What is that?

A. Between half-past ten and eleven o'clock.

Q. How long did they both remain on board the "Celtic Chief"?

A. The captain remained until she started to move, until the ship started to move.

Q. How long did the executive officer remain?

A. Until she was afloat.

(Deposition of John Henry.)

Q. The cruiser towed the "Celtic Chief" pretty well out to sea that night, didn't she?

A. Well, we were in deep water, out of the anchorage.

Q. She pulled you pretty well out from the mouth of the harbor, a little past the usual anchorage grounds?

A. Yes, we were past the usual anchorage grounds.

Q. What is that? [423—88]

A. We were past the usual anchorage grounds.

Q. As I understand your direct examination, she did not tow you back to the anchorage again?

A. No, she would have done if we could not have got another vessel to tow us in. She would have towed us into the anchorage.

Q. She did not do that?

A. He asked me if I could get another vessel.

Q. He preferred not to do it?

A. He asked me if I could get another vessel to tow us in.

Q. Well, as a matter of fact, didn't he say that he preferred not to do it? A. I beg your pardon.

Q. Didn't he tell you that he preferred not to tow you back?

A. No, he asked me if I could get another vessel to take me in; he asked me, in the first place, if we could anchor where we were, and the pilot said no, that we were in too deep water.

Q. And then it was he told you if you could not get another vessel to tow you back to the anchorage? A. Yes, that is right.

Q. Captain Henry, I direct your attention to the

(Deposition of John Henry.)

fact of a steamer pulling on a vessel with a towline, is it not practically impossible to cause that towline to form a straight line from where it is attached from the towing vessel to the towed vessel?

A. No, not impossible at all.

Q. Well, as a matter of fact it is very rarely that [424—89] you find a line straight, on a straight line from the stern of the towing vessel to the stern of the towed vessel where she is on the reef that way and considerable length of line out?

A. Well, different cases. If you have a powerful enough boat you will keep it tight all right, as long as there is no seaway.

Q. I understand you to say then that it is quite the usual thing and customary thing that when there is as much hawser out as there was out on that evening between the towing vessels, that the line should be on a straight line without any depression? (WITHDRAWN.)

Q. When there is as much hawser out as there was on the occasion of the towing vessels pulling on the "Celtic Chief," that the line should have been bent, in your estimation, straight from the point of attachment on the towing vessels to the towed vessel, in order to show that there was a good strain on the line?

By Mr. OLSON.—OBJECTION to the question, on the ground that no proper foundation had been laid for the question, it not appearing from the question what the capacity of the towing vessel is, weight of the hawser, nor the kind of a vessel upon which this question has been predicated, and furthermore

(Deposition of John Henry.)

that the question is incompetent, irrelevant, and immaterial. I supplement my objection further that no foundation has been laid for the question, and on the further ground that it does not appear that the particular towing vessels that were towing on this particular occasion had any power whatever or were exerting any power or could exert any power.
[425—90]

A. (By WITNESS.) I did not say that they should have been straight all the time. If those vessels had been powerful enough no doubt they would have kept them straight all the time. If the vessels had been powerful enough, they were not large lines. At least the Inter-Island boats were not.

Q. The point I am after is this: You believe that in cases of that kind, that the line runs straight across?

A. No, not all the time.

Q. As a matter of fact, even with a very powerful vessel is it not a very difficult thing to keep the bight of the hawser out of the water?

By Mr. OLSON.—OBJECTION, on the ground that the question is indefinite and unintelligible because it does not state what the towing vessel's power is.

A. (By WITNESS.) Not in a smooth sea. In a seaway of course it is, but not in a smooth sea.
(By Mr. LEWIS.)

Q. That depends, Captain, does it not, more or less upon the length of the hawser between the towing vessel and the towed vessel?

A. I dare say it would depend a little; yes.

(Deposition of John Henry.)

Q. You understood that my remarks applied to a vessel stationary on the reef, such as you were on that occasion, and the vessel towing upon her which is not on the reef? A. You did not state that.

Q. Well, that is what I—I will reframe my question: With one vessel fast on a reef or on the shore and another vessel pulling on her with as large a line or hawser between the towing vessel and the towed vessel as there was on that occasion out here during the salvage operations, even in the case of a very powerful vessel, is it not under those conditions very [426—91] difficult to pull the line straight across between the towing vessel and the towed vessel?

By Mr. OLSON.—OBJECTION, on the ground that it is indefinite; the question not showing how much power the hypothetical towing vessel has nor the weight of the line supposed to connect the vessel with the vessel ashore.

Q. (By WITNESS.) If the vessel is powerful enough it will keep that tight.

(By Mr. LEWIS.)

Q. What is that?

A. If the vessel has plenty of power.

Q. It will do what? A. Keep that tight.

Q. And the line will be straight across with no dip in the line?

A. There will be no dip in the line; no.

Q. In your direct examination you made some reference to the men of the Inter-Island or employed by the Inter-Island working cargo out there during the salvage operations—they worked cargo, didn't they, on that occasion after a request or after a suggestion

(Deposition of John Henry.)

to you as to whether or not you desired them to work cargo? A. Yes, that is right.

Q. What is that? A. Quite right.

Q. That was done with your full consent and approval? A. Quite so; yes.

Cross-examination by Mr. WEAVER.

Q. Captain Henry, on Monday when Captain Miller came to you to offer assistance and you told him to begin lightering, [427—92] what was the condition of the sea at that time?

A. There was a light southerly swell; a light swell coming in from seaward.

Q. That day, I believe, he caused his lighters to be put alongside the "Celtic Chief" on each side?

A. Yes, quite so.

Q. How were they moored or fastened?

A. From lines to my ship.

Q. Were any of those lines parted?

A. Yes, I believe there was.

Q. How many do you know?

A. That I cannot say.

Q. More than one?

A. Yes, there was more than one.

Q. Parted where, fore or aft, towards the direction of the sea?

A. Towards the direction of the sea, yes.

Q. Do you know the size of those lines?

A. No, I do not know the size of those lines.

Q. Was the swell running at the time they were parted, this swell that you speak of? A. Yes.

Q. At that time what, if anything, was done by the lighters to prevent their injuring the ship or the

(Deposition of John Henry.)

ship injuring the lighters on the side where they were in contact—was there any fenders used?

A. That I cannot say.

Q. How was the lighter acting with regard to your vessel as to steadiness?

A. She was jumping around more than my ship was. [428—93]

Q. Would not her rail come up to your rail and higher and then drop?

A. I don't think she went higher than the rail.

Q. Well, there was a rising and falling?

A. Yes.

Q. Some ten or fifteen feet?

A. No, I don't think so.

Q. How much?

A. No more than seven or eight feet.

Q. About seven or eight feet? A. Yes.

Q. Was any damage done to any of these lighters that you know of? A. That I don't know.

Q. You did not see any?

A. I did not see any or hear tell of any.

Q. During this time was the "Celtic Chief" at any time touching the bottom? A. Yes.

Q. How would you know that?

A. How did I know the "Celtic Chief" was touching the bottom?

Q. Yes, how did you know that—was there any bumping? A. Yes, a little.

Q. You knew, of course, that she was then on the reef—was she bumping? A. Yes, a little.

Q. Can you tell what interval there would be between when you would notice any such thing as a

(Deposition of John Henry.)

bump—was it a rare interval or a short interval?

A. Sometimes she would not bump at all. [429—94]

Q. Would she bump when this swell let her down?

A. Not while the sea was quite smooth.

Q. When the sea was very smooth she would not bump?

A. Well, the swell was on all day, there was no sea, there was a swell.

Q. And when the swell reached the lowest part it would let the vessel down with a bump?

A. For hours she would lie steady and would not bump at all.

Q. When low tide came you could notice it more than high tide?

A. I did not take notice of the tides when I was on the reef.

Q. This state of things continued how long, when you noticed the bumping occasionally?

A. Continued all the time that we were on the reef.

Q. Up to the time she came off? A. Yes.

Q. Before she came off, did you notice any difference in the feel or the sound, with regard to the vessel's contact with the reef? A. No.

Q. No difference? A. No.

Q. Didn't any change of feeling or vibration of the vessel, or sound, attract your attention before she was free of the reef? A. Yes.

Q. What was it?

A. Heavy bump was the first indication of it.

Q. Was it any different sensation of vibration

(Deposition of John Henry.)

from that you had felt prior thereto on Monday?

[430—95]

A. Yes, it was.

Q. Can you describe that?

A. Well, it is a hard thing for me to describe.

Q. There was a change and you recognized it as different—did it attract your attention particularly?

A. Yes.

Q. What did you do as a result of your attention being called to that?

A. I was down in the cabin at the time I felt that bump and that was after eleven o'clock and I immediately went on deck.

Q. Was anyone with you? A. Yes.

Q. Who? A. Captain Miller and the pilot.

Q. Pilot Macaulay? A. Yes.

Q. And you noticed that bump?

A. Yes, I did.

Q. Then what did you do? A. I went on deck.

Q. What did you do there?

A. I had a look around to see if she was moving any, and at that time I could not see any change in her.

Q. Did you have any range lights before you went in the cabin? A. Yes, I did.

Q. Did you observe those range lights when you came out of the cabin? A. Yes.

Q. Had she moved any? A. No. [431—96]

Q. After that you noticed she had not moved?

A. Yes, I noticed.

Q. And I understand you to say that when you came out of the cabin she had not moved at all?

(Deposition of John Henry.)

A. Not by the range lights.

Q. How long had you been in that cabin?

A. I don't know; about ten minutes or so.

Q. Not longer? A. Perhaps not that.

Q. Not fifteen?

A. No, I would not say fifteen.

Q. How long before you went in the cabin had you observed your range lights to determine whether or not she had moved seaward or landward?

A. Just before I went down.

Q. Then when you say she had not moved you are positive and it is not an estimate—that you can say positively that she had not moved between the time you left the deck and went into the cabin and came out and noticed your range lights?

A. Not to my range lights, she had not.

Q. What range lights were these that you used?

A. The two white lights on the shore but which lights they were I don't know, but there was two lights in one, white lights, in one line.

Q. And can you estimate how far away from the ship the first light was?

A. I suppose it would be about two miles; that is only approximately.

Q. And the second light, can you give us any idea how far back of the first light that second light was?

A. I have no idea. [432—97]

Q. Can you say whether or not your range lights were accurate—you will acknowledge that when the range lights are far away from the vessel and close together they would not be a very accurate determination of your position?

(Deposition of John Henry.)

A. It depends what distance they were apart.

Q. If the range lights were close together, and they were two miles away from the boat they would not be a very accurate determination of how much you had moved?

A. If they were close together they would not be very accurate.

Q. Do you know whether they were close together?

A. They were not close together; I could see a good distance between them, but the distance I cannot say.

Q. The harbor lights on the buoys in the harbor were much nearer than your nearest range?

A. Yes.

Q. About half a mile away. A. About that; yes.

Q. And this first light that you mentioned was far beyond the harbor lights? A. Behind it; yes.

Q. Then can you say from these range lights whether or not that vessel had moved a few feet—are you safe in saying that she had not moved anything when your range lights are far from your vessel?

A. At two miles I do not think it is a great distance for range lights.

Q. Well, are you safe in saying that the vessel had not moved with a range light the nearest of which was two miles off—is it an accurate range for short distances?

A. Well, I don't say whether it is or not. [433—98]

Q. You could not say? A. No.

Q. Could you determine whether or not your ves-

(Deposition of John Henry.)

sel had moved twenty-five feet if you occupied the same position on the "Celtic Chief" and sighted along your range lights? A. Yes, I could tell.

Q. Could you tell whether she had moved fifteen feet? A. Yes, I could.

Q. Ten feet? A. Yes.

Q. Five feet?

A. I won't say about five feet.

Q. These lights that you have mentioned are beam of your vessel, are they not?

A. About abeam, yes.

Q. On which side? A. The starboard side.

Q. Towards Honolulu, towards the channel?

A. Towards Honolulu, yes.

Q. When you made your observation before you went in the cabin what part of the ship were you?

A. On the poop deck in the after part of the ship.

Q. What mark did you take upon the ship to determine your position on the ship?

A. Which mark did I take?

Q. Yes. A. By the stanchion on the poop rail.

Q. And you observed along these ranges, the nearest one being two miles off?

A. About two miles; I could not tell the distance.

Q. And when you came from the cabin and observed again [434—99] did you sight along this stanchion again? A. Yes, I did.

Q. And you observed that there was no motion whatever? A. No motion; no.

Q. Now, when you came out of the cabin after you had gone in as you say, what did you do first?

A. What did I do first?

(Deposition of John Henry.)

Q. Yes.

A. Went to see if the vessel had moved.

Q. Went to the stanchion and sighted on the lights? A. Yes.

Q. Was there anything said or done by Captain Miller or Captain Macaulay when you came out?

A. That I do not know.

Q. You did not hear anything?

A. I did not hear anything.

Q. Did you come out last?

A. I was out of the cabin first.

Q. And left who in the cabin?

A. I suppose they came after me but I cannot say.

Q. And then after you who came?

A. I cannot tell that; I did not look.

Q. You left Captain Macaulay and Captain Miller in the cabin when you came?

A. They were coming behind me but who was first I do not know.

Q. From this change of motion or change of vibration that you noticed in the cabin you thought there was some change in the condition of the ship, didn't you? A. Yes, I did.

Q. And you went out of the cabin and took your position at the stanchion to look at your range lights? [435—100] A. Yes.

Q. Didn't you do that to ascertain whether or not she had moved? A. Yes.

Q. If the ship moved as much as five feet you could feel the vibration, could you not—if the ship had moved on the reef four or five feet you would feel the vibration?

(Deposition of John Henry.)

A. I may have done and I may not.

Q. Well, you felt some different kind of vibration than that caused by the swell?

A. Yes, I felt heavier bumping.

Q. And that caused you to go out of the cabin?

A. Yes.

Q. And when you got to the range lights you say there was no change?

A. Yes, that is right; no change.

Q. What was said by Captain Macaulay immediately after?

By Mr. OLSON.—OBJECTION, on the ground that it is hearsay.

By Mr. LEWIS.—I make the same OBJECTION.

By Mr. LEWIS.—I make the same objection.
(QUESTION WITHDRAWN.)

(By Mr. WEAVER.)

Q. When you were down in the cabin and this vibration that attracted your attention occurred didn't Captain Macaulay exclaim, "My God, she is afloat"?

By Mr. OLSON.—OBJECTION, on the ground that it is hearsay.

By Mr. LEWIS.—I make the same OBJECTION, and that it is incompetent, irrelevant and immaterial.
[436—101]

By Mr. OLSON.—I join in the latter ground.

By Mr. LEWIS.—As well as hearsay.

A. (By WITNESS.) I do not know what he said.
(By Mr. WEAVER.)

Q. What was the occasion of your going down into the cabin? A. To get a little lunch.

(Deposition of John Henry.)

Q. With Captain Macaulay and Captain Miller?

A. Yes.

Q. And what were you doing down there?

A. What were we doing down there?

Q. Yes, were you eating lunch? A. Yes.

Q. And were not paying particular attention to the vessel at that time were you?

A. Any fresh movement in her I did take notice of.

Q. Any fresh movement you would notice but the ordinary movement would not particularly attract your attention?

A. Any movement at all would attract my attention at that time.

Q. Now, just prior to going into the cabin at that time to get that lunch, what was the condition of the lines of the cruiser "Arcona"?

A. They were tight at that time as I noticed them.

Q. How tight?

A. They were right straight out of the water.

Q. They were out of the water, not sagging?

A. What is that? [437—102]

Q. The bight was not in the water?

A. Not at that time.

Q. Do you know whether or not the cruiser was moving her propeller? A. That I cannot say.

Q. How did you see the cruiser's lines?

A. How did I see?

Q. What was the light?

A. The search-light was on and I could see them before the search-light was put on.

Q. How?

A. From the parts where they were made fast.

(Deposition of John Henry.)

Q. From the parts on the "Celtic Chief"?

A. Yes.

Q. When there was no search-light, before the search-light came on what was the light?

A. There were various lights there.

Q. Was it a moonlight night? A. I cannot say.

Q. Was it a dark night? A. No.

Q. Was it a cloudy night? A. No, it was not.

Q. Was it a bright night with starlight?

A. Yes, I believe so.

Q. Could you see the two lines of the cruiser to the "Celtic Chief" before the search-light came on?

A. Not right along to the ship.

Q. Not what?

A. Not right to the ship. [438—103]

Q. How far could you see them?

A. I could see a good distance.

Q. From your ship to the cruiser? A. Yes.

Q. Could you tell whether or not those lines were in the water? A. Yes, I could.

Q. Were not those lines at least one thousand feet?

A. Yes, I daresay they would be that. I said yesterday these lines were approximately one hundred and fifty fathoms.

Q. You mean one hundred and fifty fathoms?

A. Yes, that is right.

Q. And you could not tell whether or not the bight of that line was in the water?

A. Not right along; no.

Q. But after the search-light came on you could?

A. Certainly; yes.

Q. How long before you went in the cabin did the

(Deposition of John Henry.)

search-light come on?

A. It was, say, about an hour and a half, but when it came on I cannot say, but it was an hour and a half before we went in the cabin, but when it first came on I cannot say.

Q. And when you were down in the cabin where was the captain of the cruiser?

A. He was aboard the ship "Celtic Chief."

Q. When did he go back—or did he go back at all?

A. Yes.

Q. When? A. After the vessel started to move.

Q. Did he go back after you had cut loose from the Inter-Island steamers or before? [439—104]

A. Before we cut loose.

Q. Didn't you cut loose from the Inter-Island steamers immediately upon coming off the reef?

A. Yes, when the vessel was afloat we cut them.

Q. How long from the time you came out of the cabin and you cut loose from the Inter-Island steamers? (WITHDRAWN.)

Q. How long was it between the time you came out of the cabin and the time you cut loose from the Inter-Island steamers?

A. I would say about an hour; I cannot say exactly.

Q. One hour? A. Yes.

Q. Was it not a very few minutes?

A. No, I am sure it was not.

Q. Was it not about five minutes? A. No.

Q. You are sure of that? A. Yes, sure of it.

Q. It took fully an hour?

(Deposition of John Henry.)

A. Approximately about that.

Q. Was there time for the captain of the cruiser to leave the "Celtic Chief" and go upon his steamer before you cut the lines of the Inter-Island vessels?

A. Yes.

Q. And where was the executive officer when you came out of the cabin this time?

A. On the poop deck.

Q. How long was he there after you came out?

A. After we came off the reef.

Q. After you came out of the cabin how long was he there? [440—105]

A. I could not say; he went aboard his own ship after we got afloat.

Q. He stayed until you were afloat? A. Yes.

Q. And he stayed until after you cut the lines of the Inter-Island vessels? A. Yes.

Q. Where was the captain of the cruiser when you came out of the cabin?

A. He was on the poop deck.

Q. And was he there all the time up to the time he left the vessel?

A. Yes, up to the time he left.

Q. Where was the executive officer?

A. I cannot say, but he was on the poop deck somewhere.

Q. He was on the poop deck somewhere?

A. Yes.

Q. Was he with captain or on a separate part of the deck?

A. Sometimes they were together and sometimes they were not.

(Deposition of John Henry.)

Q. When you first came out where did you see them?

A. I did not see the executive officer at that time; I saw the captain.

Q. When did you notice the executive officer?

A. It may have been some time afterwards but I cannot say how much it was; I don't know.

Q. Did you have any arrangement with any officer of the cruiser for signals when they should begin to pull? A. Yes. [441—106]

Q. What was that? A. That I cannot say.

Q. You had some arrangements?

A. There was an arrangement; yes.

Q. Well, who did know if you don't know? You were the captain of the "Celtic Chief" and there was some arrangement.

A. I knew at the time what they were but I have forgotten them.

Q. Well, let me refresh your mind; was not there an arrangement by which the cruiser sent a seaman aboard with an officer, and that seaman was to shoot off a piston with lights? A. Yes, stars.

Q. And was it not arranged that one light should indicate "move ahead slowly," or "Prepare," or something of that kind?

A. There was something like that.

Q. And two lights was to go ahead? A. Yes.

Q. And three lights to go ahead full speed?

A. Three the ship was afloat.

Q. Three stars was to move ahead full speed?

A. Three, that the ship was afloat.

Q. What was done after you came out of the cabin

(Deposition of John Henry.)

about those signals? A. Nothing at that time.

Q. How long after you came out of the cabin were the signals made?

A. I cannot say; about twenty minutes to half an hour.

Q. What were those signals?

A. What were those signals? [442—107]

Q. Yes, what was the first signal?

A. One shot.

Q. Was it made? A. Certainly.

Q. Is it not a fact that the only signal made was not a one signal? A. I beg your pardon?

Q. Is it not a fact that there was no one star signal given? A. No, it is not a fact.

Q. How many signals were given?

A. There was three.

Q. All three? A. Yes.

Q. One star signal and then after that a two star signal? A. Yes.

Q. And after that a three star signal?

A. Yes, all three were given.

Q. And what were the intervals?

A. Not much time between them.

Q. Well, were they simultaneously, that is, shot off one, two and three? A. No.

Q. Was it done deliberately, a separate signal?

A. Yes, separate signal.

Q. What was the interval between the one star signal and the two star signal?

A. That I cannot say.

Q. Was it one minute or five minutes?

A. More than five minutes. [443—108]

(Deposition of John Henry.)

Q. Perhaps ten minutes between the first and second signal? A. Between five and ten minutes.

Q. When the first signal was given, one star, what, if anything, was done by that cruiser?

A. That I cannot say.

Q. And when the second star signal was given what, if anything, was done by the cruiser?

A. I cannot say; I was on board my own ship and did not see what was going on aboard the cruiser.

Q. Well, there was a search-light on the whole apparatus from the cruiser to your boat?

A. I could not see fore and aft the cruiser.

Q. You saw these lines? A. Yes.

Q. How far did you see those lines?

A. Right to the stern of the cruiser.

Q. Cannot you tell from the lines whether or not the cruiser was doing anything?

By Mr. OLSON.—OBJECTION, on the ground that it has been asked and answered, the captain has already testified that the lines were taut all the time.
(By Mr. WEAVER.)

Q. He said he could not see them?

A. I did not; I said that I could see the lines.

(At 10:05 A. M. a recess was taken until 10:15.)

Q. Could you tell whether or not those lines were hanging with the bight in the water?

A. If they had been hanging I could have seen it.

[444—109]

Q. You could have seen it?

A. Yes, at the time you mention.

Q. At the time you had cut loose from the Inter-Island vessels?

(Deposition of John Henry.)

A. At the time we cut loose from the Inter-Island vessels that is not the time you asked me; you asked before that.

Q. From the time you came out of the cabin to the time you cut loose from the Inter-Island vessels you could see the two lines of the cruiser all the time?

A. Yes.

Q. And were they equally taut all the time?

A. No, not all the time; when the vessel started to move they would get slack, but they would tighten up.

Q. When the "Celtic Chief" started to move?

A. Yes, that is so.

Q. Did you when you came out of the cabin observe the line of the Miller Salvage Company?

A. Yes, shortly after I came out of the cabin.

Q. Well, of course, it was afterwards.

A. I took the bearings of those range lights first.

Q. You saw the range lights? A. Yes.

Q. And that indicated to you what?

A. That it was a bit slack, the Miller Salvage Company.

Q. What line do you mean?

A. The Miller Salvage Company line.

Q. Do you know what was done then when the line was a bit slack?

A. They started to heave on the luff tackles.

Q. Did you make any remark at that time about what conclusion you drew from those conditions?

[445—110] A. No, I did not.

Q. Did you after that observe your range lights again? A. Yes.

Q. What did you observe?

(Deposition of John Henry.)

A. They were shifting gradually, opening out gradually.

Q. That meant to you what?

A. That the ship had started to move.

Q. Did you not make a remark to the effect that the Miller Salvage Company's anchor was coming home? A. No, I did not.

Q. Where was the executive officer of the cruiser and the captain of the cruiser just prior to your going down into the cabin to take this lunch?

A. They were on the after end of the poop deck.

Q. Where was Captain Haglund?

A. That I cannot say; I did not see him.

Q. Was he aboard at that time?

A. I did not see Captain Haglund until the vessel was started.

Q. Did you leave the Captain and executive officer of the cruiser on the poop deck and go into your cabin to lunch? A. Yes.

Q. You did not invite them to lunch then?

A. Yes, I did.

Q. What signals had you arranged with the Inter-Island steamers as to pulling?

A. There was one light up in the rigging from dark, shortly, after dark; one red light.

Q. One red light in the rigging shortly after dark, what did that mean? [446—111]

A. That the vessels were to pull steady.

Q. One red light? A. Yes.

Q. Was there any other signals?

A. Yes, there was a signal made later on; another red light put up.

(Deposition of John Henry.)

Q. A second red light beside it or under it or where?

A. Either under or above it; it did not matter.

Q. What was the position?

A. One red light over the other.

Q. What did that mean? A. Go full speed.

Q. Did you put up that signal at any time after you came out of the cabin? A. No, we did not.

Q. Did you cause it to be put up?

A. I did. Before I went in the cabin; before eleven o'clock.

Q. Before eleven o'clock and before you went in the cabin—are you sure of that? A. Yes, I am.

Q. Did you order it done? A. Yes.

Q. Did you see it done?

A. Yes, saw the second mate put it up.

Q. Before you went into the cabin to get the lunch?

A. Yes.

Q. As a result of that did you notice anything with regard to the Inter-Island lines? A. No, I did not.

Q. Was there any arrangements, Captain, with the [447—112] cruiser's officers or with the Inter-Island officers, or any of them, about when you should make an effort to get this boat off?

A. Yes, about high water, I believe so.

Q. When was high water to occur?

A. About two o'clock.

Q. In the morning?

A. Yes, between one and two.

Q. And when you went down in the cabin it was about what time? A. After eleven o'clock.

Q. Well, now, why did you make the red-light sig-

(Deposition of John Henry.)

nal to the steamers to pull at eleven when you had arranged to make an effort at about high water?

A. It was the pilot's idea to put the other light up.

Q. Did the pilot tell you to put that light up?

A. Yes.

Q. Before you went in the cabin? A. Yes.

Q. And that meant that the Inter-Island boats should all start pulling then? A. Yes.

Q. Do you know whether Captain Macaulay was there when the light was put up?

A. I believe he was on the poop deck somewhere.

Q. With you? A. I did not say he was with me.

Q. Did he take any part in ordering that light up, having the order executed?

A. No, I had the order executed.

Q. He did not order the light to be put up? [448—113] A. No.

Q. What do you mean by saying it was the pilot's idea? A. He told me that we should put it up.

Q. And then you ordered it up? A. Yes.

Q. At that time before you went in the cabin?

A. Yes.

Q. Was the pilot there then when you ordered it up, was he present right there with you?

A. He was not right with me; he was near it.

Q. On the poop deck?

A. Somewhere on the poop deck; yes.

Q. Did you give the order in a tone of voice that he could hear?

A. I do not know whether he heard or not.

Q. Well, you could give the order secretly to an officer or in an ordinary tone of voice; which was it?

(Deposition of John Henry.)

A. I gave it in an ordinary tone of voice.

Q. That he could hear if he was standing near by?

A. I do not know whether he was standing near by.

Q. You don't know? A. No, I cannot say.

Q. Well, he suggested this idea to you and after he suggested this idea how long was it before you gave the order and had it executed?

A. I gave the order right away, shortly afterwards.

Q. There was no interval of wait to let Captain Macaulay move away and then your giving the order and his not hearing it?

A. I had to call the second mate before I gave him my order to get the light put up. [449—114]

Q. And you gave it in an ordinary tone of voice so that Captain Macaulay could hear it?

A. I gave it in an ordinary tone of voice.

Q. Well, when you gave this order—when Captain Macaulay suggested this to you what did he say, what did Captain Macaulay say to you when he suggested it, what were the words he used?

A. I cannot exactly say but they were to the effect that we might put the red light up for the Inter-Island boats to start pulling.

Q. And as a result what order did you give your second mate?

A. I gave him the order to put the other light up in the rigging; the other red light.

Q. Did you tell him how to put it up?

A. He knew how without being told, they had been put up every night.

Q. And when the red lights went up they were to

(Deposition of John Henry.)

start pulling? A. Yes, that is so.

Q. Was there any other signal about pulling, except two red lights and the stars?

A. No other signals.

Q. Did that two red lights mean pull ahead full speed or merely to start pulling?

A. I believe full speed was the arrangement.

Q. They were to use what force they had at that time, not merely to start pulling?

A. Not merely to start pulling; no.

Q. On prior nights when you put up the signal of two red lights to start pulling was there any particular time of [450—115] night you would set up the signals with regard to tide?

A. When it was coming on to high tide that was the time it was put up.

Q. How long before high tide?

A. That I cannot tell.

Q. Well, this time it was three hours before high tide—did you do the same thing the nights before?

A. Yes, the nights before it was done too.

Q. And did they pull on Tuesday night, say?

A. On Tuesday night?

Q. Yes.

A. Well, the lights were there for them to pull but I don't know whether they pulled or not.

Q. Well, you can see these cables or lines?

A. Well, as I said before, there was times when the line was in the water and times when it was out of the water. I never saw any difference with their hawsers whether the lights were up or not.

Q. If you were looking at these lines could you not

(Deposition of John Henry.)

tell what they were doing by observation of them as they came aboard your ship, could not you tell whether some force was being exerted or not?

A. As they came aboard my ship?

Q. Yes, you could observe those and the condition of them? A. Yes.

Q. That told you whether there was power exerted, didn't it? A. Well, it would, yes.

Q. Well, on Tuesday night were not those vessels exerting power on your vessel? [451—116]

A. Yes, to some extent.

Q. Well, how much? A. I cannot tell.

Q. Well, a little power or a great deal of power?

A. I do not know what power they had on; I could not say how much power they had on.

Q. What did you do to find out?

A. I think I stated that before.

Q. Well, what did you do?

A. Stamped them down with my foot.

Q. And didn't you find they were taut?

A. At times they were and at times they were not.

Q. When you had those two red lights up to pull ahead, were they not pulling?

A. I don't know; they were the same as before when the red lights were not up.

Q. No difference between the time the lights were up and the time the lights were down?

A. I could not see any.

Q. Did the vessel move off any on Tuesday?

A. Tuesday not at all.

Q. How do you know that?

A. I could see that she did not.

(Deposition of John Henry.)

Q. By these range lights?

A. I could not see any range lights.

Q. On Tuesday night did you have any range lights? A. Yes.

Q. On Tuesday night did the vessel move either way, seaward or landward, from your range lights?

A. Not that I could tell.

Q. On Monday did the vessel move seaward or landward— [452—117] judging from your range lights or ranges? A. Not that I could tell.

Q. Did you have any day ranges? A. Yes.

Q. On Monday and Tuesday? A. Yes.

Q. Did that vessel move in either direction on Monday or Tuesday? A. That I cannot say.

Q. Did you see your ranges?

A. By the ranges she was in the same position, or about the same.

Q. And you could not say from the ranges whether she was moving one way or the other?

A. If she was moving one way or the other way much I could have told, but by the depth of the water she did not move any.

Q. You had soundings? A. Yes, we did.

Q. How deep was the water there?

A. Three and a quarter fathoms all round.

Q. What day did the "Mauna Kea" part the twelve inch hawser? A. Monday.

Q. At that time was she exerting power on you?

A. Yes, I suppose so.

Q. Did she move your vessel? A. No.

Q. When this cruiser "Arcona" parted that steel hawser did she move your vessel?

(Deposition of John Henry.)

A. No, I don't think so. [453—118]

Q. How many other vessels were pulling on your vessel when the steel hawser to the cruiser parted?

A. Three.

Q. And was your vessel moved any? A. No.

Q. Did you feel any of that vibration that you spoke of that you first felt when you were down in the cabin eating that lunch?

A. She was bumping at times.

Q. The ordinary bumping of the swell?

A. Well, I don't know whether it was the swell or not.

Q. You have spoken of the dented plate in your vessel. Tell us what that was.

A. How could I tell that?

Q. What is the condition of the plate that you spoke of—how large was it dented and what is the appearance of it?

A. About an inch—the place was dented about an inch. Less in some places.

Q. How far did this change of the normal level of the hull extend, if it was dented an inch—what do you mean by it? Describe it.

A. I cannot describe the plates because I have never seen them.

Q. How do you know it was dented an inch?

A. The report of the diver.

Q. Can you see it from the inside of the vessel?

A. Cannot see any dents.

Q. Is she steel? A. No.

Q. What is she? A. Iron. [454—119]

Q. An iron ship? A. Yes.

(Deposition of John Henry.)

Q. What is her length?

A. Two hundred and sixty-six feet and eight-tenths.

Q. What is the breadth?

By Mr. WEAVER.—I move that we strike out the evidence as to the dented plate.

By Mr. LEWIS.—I object to that; it was called for by your own question.

By Mr. MAGOON.—We move this on the ground that it is hearsay.

A. (By WITNESS.) Thirty-nine feet five inches.

(By Mr. WEAVER.)

Q. And the depth?

A. Twenty-two feet three inches.

Q. What is the tonnage?

A. One thousand seven hundred and nine tons net.

Q. Do you know what the gross tonnage is?

A. One thousand seven hundred and eighty-nine.

Q. What is the ship's number?

A. 91,072, I think, but I won't be certain.

Q. You think that is it?

A. Yes. My register and log-books are all ashore.

Q. Where are your ship's papers?

A. At the consul's; the register is there.

Q. Will you produce the ship's papers?

A. I cannot draw them from the consul until my ship is ready to leave.

Q. They are in control of the consul now?

A. Yes.

Q. Do you know when they are to be given to you?

(Deposition of John Henry.)

A. When the ship is ready for sailing.

Q. I ask you if you cannot obtain from the consul permission [455—120] to use these papers, to take these papers to exhibit here before the commissioner so that they may be inspected and returned to the consul?

By Mr. OLSON.—OBJECTION, on the ground that it is just as easily accessible to counsel as it is to the captain; they are in control of the British Consul and he is just as available to counsel.

By Mr. LEWIS.—Well, I ask at this time of counsel for the ship that he will enter into an arrangement with either counsel whereby we can get an inspection of the ship's papers.

By Mr. OLSON.—Yes, I am agreeable to that.

A. (By WITNESS.) I do not think the consul will give the papers up, as he has no right to give the ship's papers up.

(By Mr. WEAVER.)

Q. What is the value of this ship?

A. That I cannot say.

Q. You don't know what she cost?

A. No, I do not.

Q. How old is she?

A. She was built in 1885.

Q. Where? A. Dumbarton.

Q. What class is she?

A. She is classed A-1 at Lloyds.

Q. A-1 iron ship? A. Yes, A-1 iron ship.

Q. Do you own any interest in her?

A. What? [456—121]

Q. Do you own any interest in her?

(Deposition of John Henry.)

A. No, I do not.

Q. What was the date of her last survey?

A. She was surveyed in Port Talbot.

Q. When?

A. Two years ago; two years in June.

Q. When was this classification of A-1 made?

A. That I cannot say.

Q. Is the boat kept in first-class condition at the present time? A. Yes, she is.

Q. And before she went on the reef was she in first-class condition? A. Yes, she was.

Q. Kept up in all respects?

A. Kept up in all respects; yes.

Q. Do you know the value of this cargo?

By Mr. OLSON.—OBJECTION, on the ground that the witness is not qualified to answer and has not been qualified as an expert.

(By Mr. WEAVER.)

Q. Do you know anything about the value of the cargo of nitrates? A. Nothing whatever.

Q. Do you know the invoice value?

A. No, I do not.

(By Mr. MAGOON—to Mr. OLSON.)

Q. Do you refuse to produce the invoice of the cargo and the value of the ship?

(By Mr. OLSON.)

A. I take it that the record shows that it is for [457—122] counsel who desires to prove the value of the ship and cargo, to prove by proper and regular evidence. I do not recognize that the invoice of the cargo is a proof of the value of the cargo.

(By Mr. MAGOON—to Witness.)

(Deposition of John Henry.)

Q. Have you got the invoice of that cargo?

A. No, I have not.

Q. Did you ever have it? A. No, I did not.

Q. Never had it in your possession?

A. No.

Q. And have you got any document in your possession or have you ever had in your possession any document which gives the value of the ship?

A. No.

(By Mr. WEAVER.)

Q. You have stated that the "Celtic Chief" came off the reef about twelve o'clock or twelve-twenty—how do you fix that time?

By Mr. LEWIS.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and a misstatement of the witness' testimony. He did not say she came off at twelve o'clock.

By Mr. WEAVER.—His testimony was that she was float at twelve-twenty, and not off the reef at twelve o'clock, and she was afloat at twelve-twenty.

By Mr. LEWIS.—I object to the question. (Question withdrawn.)

(By Mr. WEAVER.)

Q. (To WITNESS.) You have answered in effect that the "Celtic Chief" was float at twelve-twenty o'clock on the [458—123] morning of Thursday and not off the reef at twelve o'clock of the morning of Thursday—how do you fix that time?

A. By the time on the ship.

Q. And when did you observe the time by the time of the ship—when did you notice the time, did you have a watch on at that time?

(Deposition of John Henry.)

A. I had a watch with me all the time and another clock in the chart-room.

Q. Please tell me when you looked at the watch when you observed that the boat was afloat.

A. Maybe it was a few minutes before twelve o'clock I observed my watch; she was not off the reef then.

Q. Was Captain Macaulay near you when this boat was afloat, when she first came off?

A. I don't know where he was.

Q. Were you together when this boat came off, about that time? A. When she came off the reef?

Q. Yes.

A. I cannot say who was near me or who was not.

Q. Don't know who was near by? A. No.

Q. Were not you talking with him at the time?

A. The pilot?

Q. Yes. A. Not that I remember.

Q. You and he were not close together talking to each other at that time? A. Not that I remember.

Q. When did you study the time—didn't you look at your watch as soon as you noticed the boat was float? [459—124]

A. Not exactly but a few minutes after I did when I knew she was afloat.

Q. And that was what time?

A. About twenty past twelve.

Q. What do you mean by a few minutes—one minute or ten minutes?

A. Just one or two minutes.

Q. Then you observed your watch within a minute or two of the time that the boat was float, and that

(Deposition of John Henry.)

was twelve-twenty—is that right?

A. That the boat was float.

Q. Yes.

A. Yes; I cannot be sure for a few minutes either one way or the other.

Q. Did Captain Macaulay look at his watch at that time?

A. I don't know anything about that; I was looking after my own interests and not Captain Macaulay.

Q. Where were you standing when the boat came off?

A. The starboard side of the poop deck.

Q. Was Captain Macaulay standing by you or not?

A. There was lots of people around there.

Q. Well, you saw whether or not Captain Macaulay was on the poop deck at that time?

A. He was there but I cannot say where.

Q. He was there at that time? A. Yes.

Q. And you don't remember his making any remark at the time the boat came off?

A. No, I do not.

Q. Going back to the value of the vessel, you have made [460—125] an answer here denying that the "Celtic Chief" was worth fifty thousand dollars. Now, if she was not worth fifty thousand dollars what was she worth?

By Mr. OLSON.—OBJECTION, on the ground that the witness has not qualified to testify as to value. (By Mr. WEAVER.)

Q. Why do you say she was not worth fifty thousand dollars?

(Deposition of John Henry.)

By Mr. OLSON.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and that it is not an allegation and therefore the verification is not a statement as to what her value is.

A. (By WITNESS.) Simply because the vessel is not worth fifty thousand dollars.

(By Mr. WEAVER.)

Q. You know that of your own personal knowledge?

By Mr. OLSON.—OBJECTION, on the ground that the witness is not qualified to answer.

(By Mr. WEAVER.)

Q. Did you obtain any information from the crew or other parties engaged in the salvage operations, or officers of your vessel, or any other vessel, about the value?

A. They could not tell the value of the ship any more than I could.

Q. Did you get this information from anyone on which you base your allegation that the ship was not worth fifty thousand dollars?

By Mr. OLSON.—OBJECTION, on the ground it is incompetent, irrelevant [461—126] and immaterial.

(By Mr. WEAVER.)

Q. Well, did you make this allegation through personal knowledge, or which is it?

A. Yes, from personal knowledge that I have had with ships.

Q. How long have you—have you ever owned any ships? A. What?

Q. Have you ever owned iron ships? A. No.

(Deposition of John Henry.)

Q. Or any ships? A. No.

Q. Have you ever owned any interest in any ship?
A. No.

Q. Have you ever built ships? A. No.

Q. Have you had experience appraising ships?
A. No.

Q. How do you make this allegation that she is not worth fifty thousand dollars?

A. By own experience.

Q. You have had experience and can estimate the value of a ship?

A. By what I see other ships sold for in the market.

Q. Then, Captain, you have made the statement here on your oath that this vessel is not worth fifty thousand dollars?

By Mr. OLSON.—OBJECTION, on the ground that it is incorrectly stating the facts. The answer of the claimant is that he denies that it [462—127] is worth fifty thousand dollars, and that is—

(Question Withdrawn.)

(By Mr. WEAVER.)

Q. You deny then that the “Celtic Chief” was or now is of the value of fifty thousand dollars?

A. Yes, quite so.

Q. And you are willing to make that statement now?

A. I won't make any statement now or swear to it.

Q. Won't answer?

By Mr. OLSON.—OBJECTION, on the ground that the witness is not qualified to answer as an expert as to value.

(Deposition of John Henry.)

(By Mr. WEAVER.)

Q. Was the wire which was used by the Miller Salvage Company a larger or smaller line or of the same size as that used by the cruiser?

A. That I cannot tell; I did not see the wire aboard the ship; it was outside my ship when I saw it; the wire never was aboard my ship.

Q. Well, you say that the wire never was aboard your ship?

A. The wire attached to his anchor was never aboard my ship.

Q. How was that cable or wire of the Miller Salvage Company attached to the hawser aboard your ship, that you have mentioned?

A. It was to the hawser.

Q. Was it not attached to the wire?

A. Attached to a manila hawser.

Q. Was it shackled on? [463—128]

A. That I cannot say.

Q. Could not you see whether it was?

A. It was dark at that time.

Q. Was it dark before they got it shackled on?

A. It was shackled on before ever the anchor was dropped, I suppose; before ever it was let go.

Q. Was the hawser brought aboard your ship and the hawser hove taut before dark? A. Yes.

Q. How far away was this cable from your ship, the end of the steel cable from the "Celtic Chief"?

A. That I cannot say.

Q. Was it not some twenty or fifty feet?

A. I daresay about that; yes.

Q. You were on the poop deck during that even-

(Deposition of John Henry.)

ing? A. Yes.

Q. Before dark? A. Yes.

Q. And could not you see from the poop deck the cables?

A. I did not take notice of it at the time whether it was shackled on or not.

Q. But there was a hawser running from the deck of the "Celtic Chief" over to this wire cable?

A. Yes.

Q. What else was there besides the hawser running to the cable from the "Celtic Chief"?

A. After it was hove in there was a piece of wire, three and a half inch wire, I think it was, rove through the shackle, rove through the eye of the shackle, or somewhere.

Q. Then there was a two-part three and a half steel wire running from the "Celtic Chief" out and back to the "Celtic [464—129] Chief"? A. Yes.

Q. It went to the cable at any rate and back again?

A. Yes.

Q. And when the Miller Salvage Company was hove taut with this hawser and this two-part steel tackle it tended to bring the cable towards the "Celtic Chief"? A. Yes, when it was hove.

Q. You don't know that was brought aboard?

A. What was brought aboard?

Q. That steel cable, do you know whether it was brought aboard?

A. I believe it was brought aboard, yes; but I cannot say for certain.

Q. When they hove taut finally the cable was brought aboard?

(Deposition of John Henry.)

A. The cable was brought aboard after twelve o'clock; after the ship was started, the wire cable.

Q. After the ship was started, where was this shackle, on board your ship or outboard?

A. Whether it was an eye or a shackle, I don't know.

Q. Well, the end of the cable of the Miller Salvage Company? A. It was aboard the ship then.

Q. Do you remember the end of this cable, whether it was a shackle or an eye, getting jammed in the chock?

A. There was something jammed in the chock; yes, that is right.

Q. Was not there some difficulty in getting it loose?

A. No, it was struck with a capstan bar and knocked loose. [465—130]

Q. And there was considerable disturbance there at that time because you could not get it loose?

A. No, no disturbance.

Q. You had to hurry this matter in throwing the end of the cable overboard, to get out of trouble?

A. Well, they had not to hurry; they had to attend to the rest of the lines.

Q. The cruiser was pulling and the "Celtic Chief" was following and you had to get this cable of the Miller Salvage Company out of the way as quick as you could? A. Yes.

Q. And the shackle got foul in the chock?

A. It was jammed for a second or two, that is all.

Q. And things were moving at that time?

A. The ship was moving.

(Deposition of John Henry.)

Q. There had been a shooting of rockets and starting of steamers and things were excited at that time?

A. No excitement.

Q. You were not excited? A. No.

Q. Was Captain Macauley there?

A. Yes, I believe so.

Q. Was not he excited?

A. I don't know; I was not taking notice of him.

Q. Well, you have said that you had been on duty since Saturday morning up to this Wednesday night, and that you had been down in the cabin only a few minutes; is that right?

(At 10:55 A. M. a recess was taken until 10:60 A. M.)

A. Yes, that is right.

Q. Did you not sleep during that time? [466—131] A. No, I had no sleep.

Q. You had not even had a "cat-nap," as they call it? A. No, I had not.

Q. Then at this time on Wednesday night how were you feeling in regard to sleep?

A. I was not feeling very good.

Q. A little strained? A. What?

Q. You were a little strained?

By Mr. OLSON.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial.

A. (By WITNESS.) Yes.

(By Mr. WEAVER.)

Q. In regard to day ranges, I want to ask what ranges you took for locating the position of the vessel on Monday, Tuesday and Wednesday—did you have the same range all the time, the same set of

(Deposition of John Henry.)

ranges for daylight ranges?

A. The same set of ranges for daylight as we had at night?

Q. No, Monday, Tuesday and Wednesday by daylight, did you have the same ranges?

A. Yes, the same ranges.

Q. What were they?

A. Buoys in the entrance to the harbor.

Q. Do you know which one?

A. No, I cannot tell.

Q. A buoy in the harbor and what else?

A. The buoys as you enter the harbor.

Q. Well, there are two sets of buoys, the west side [467—132] and the east side—now, which one did you take for a near range, if it was a near range?

A. The outer buoy for one.

Q. On the west side of the channel?

A. Yes, on the west side of the channel.

Q. What was the other range?

A. The one further away inside.

Q. Another buoy?

A. It was not a buoy; it was a landmark, a chimney.

Q. What was it? A. I don't know.

Q. A house or a tree?

A. A chimney; I took it for a chimney.

Q. How far was that chimney from the buoy?

A. I cannot say.

Q. Was it a mile, half a mile or two miles?

A. About a mile.

Q. Do you know what chimney it was?

A. No, I do not.

(Deposition of John Henry.)

Q. Do you know the Sewer Garbage Department chimney on the beach? A. No, I do not.

Q. What was the color of it?

A. A dirty yellow, I think; it is hard to tell what it was.

Q. Was it a round chimney, was it iron or metal, brick or stone?

A. I don't know whether it was stone, wood or brick, or what it was.

Q. Can you describe it? [468—133]

A. Only a round chimney.

Q. Well, there are all kinds of chimneys. Tell us something about this chimney.

A. I did not take particular notice whether it was round or anything at all about it.

(By Mr. LEWIS.)

Q. Well, I will ask you was it a little chimney of a house or whether it was a chimney that projected up over the houses?

(By Mr. WEAVER.)

Q. Well, was there anything peculiar about this chimney by which you could tell it again?

A. Nothing peculiar about it.

Q. Was it a small brick chimney of a house or was it a tall chimney such as is used for manufacturing establishments?

A. It was a chimney about fifteen or twenty feet round. I took it for a chimney but it might not have been a chimney at all for all I know.

Q. It might have been a church steeple?

A. Yes.

(Deposition of John Henry.)

Q. Fifteen or twenty feet round, and how high was it?

A. I said about twenty or fifteen feet high.

Q. Above the roof of a building?

A. I took it for a building.

Q. What did the building look like?

A. I don't know anything about it.

Q. Did it look like a stone building or a wooden building or what? [469—134]

By Mr. OLSON.—OBJECTION to this line of examination, on the ground that the witness has fully shown that he cannot positively identify the chimney or the beach.

(By Mr. WEAVER.)

Q. What part of the beach from the harbor was this chimney? A. It was off the beach.

Q. What part of the beach from the harbor channel was it—can you estimate how far beyond or eastward of the channel was that part of the beach opposite the chimney?

A. How far the chimney was from the beach?

Q. No, how far was that part of the beach opposite the chimney eastward of the channel into the harbor?

By Mr. OLSON.—OBJECTION, on the ground that it is unintelligible.

A. (By WITNESS.) That I cannot tell.

(By Mr. WEAVER.)

Q. Well, was it half a mile?

A. I don't know I am sure; I have no idea.

Q. Was it a mile?

By Mr. OLSON.—OBJECTION, on the ground that the witness has testified that he does not know.

(Deposition of John Henry.)

(By Mr. WEAVER.)

Q. How far was your rear range beyond the buoy you spoke of as the near range?

A. About a mile, I think I said it was. I cannot say exactly.

Q. From the time the cruiser put her lines on the "Celtic [470—135] Chief" how often did you observe her lines?

A. I did not count it but I observed them a good few times.

Q. Well, you were there on the poop deck nearly all the time and you saw those lines constantly?

A. Not constantly; no.

Q. Well, you saw them every few minutes?

A. Well, I would not say every few minutes, but every now and again.

Q. Every hour?

A. Well, I observed them more than once every hour.

Q. Well, were those lines taut during the daylight hours? A. No.

Q. They were slack? A. Yes.

Q. And when they were slack was the bight in the water of both lines? A. Yes.

Q. And after dark were those lines in the water at all?

A. It was dark before the wires were made fast and she got any weight on them.

Q. Up to the time that the search-lights were put on can you say what condition those lines were in, were they taut or not?

A. They were getting a strain on them.

(Deposition of John Henry.)

Q. Was the bight in the water then?

A. At times they would be and at times they would not be.

Q. Prior to the search-light coming on? [471—
136] A. That is after they were made fast.

Q. And prior to the search-light?

A. I don't know what time the search-light was put on.

Q. Well, up to the time the search-light was on and the time it became dark, could you observe these lines of the cruiser?

A. I could observe them so far along but not right to the cruiser.

Q. Were not the bights of those lines in the water at that time? A. No, not all the time.

Q. Well, what part of the time were they out of the water?

A. They were in the water now and again and then they would be tight, and then they would slacken up again.

Q. How do you account for this condition, that they were tight and slack?

A. Because they were getting an equal strain on both hawsers.

Q. But they had not got it on up to the time of the search-light?

A. Yes, they had an equal strain on before eight o'clock.

Q. They got a strain before eight o'clock?

A. Yes.

Q. And after eight o'clock and up to the time that the search-light went on did you observe those lines?

(Deposition of John Henry.)

A. I did not see them right to the cruiser but from my observation from the ship as far as I could see they were tight. [472—137]

Q. Could you determine from the ship at that time and before the search-lights were turned on whether or not the bights were in the water?

A. No, not in my estimation from what I could see aboard the ship.

Q. Then up to the time that you first noticed these search-lights went on the two cruiser's lines were taut and the bights not in the water, is that what you intend to say? A. Yes, they were not.

Q. Could you see halfway to the cruiser?

A. I beg your pardon?

Q. Could you see halfway to the cruiser after dark and before the search-lights were on?

A. I could not say about halfway but I could see a good distance.

Q. You could not tell whether the bight was in the water?

A. I would not exactly swear to it.

Q. When Captain Miller came aboard did you say anything to him about placing an anchor, where he was to place his anchor?

A. He told me about placing the anchor astern himself.

Q. Didn't you direct him where to put the anchor?

A. Yes, I did.

Q. And did he put it in the line as directed by you?

A. Yes.

Q. Dead astern? A. Yes, dead astern.

Q. You have said that some of the lines used by

(Deposition of John Henry.)

Captain Miller in his work rigging tackle on deck belonged to you—what part of the lines belonged to you out of that outfit? [473—138]

A. I believe there was a steel wire, three blocks and about fifty fathoms of four and a half, four stranded rope, and about thirty or forty fathoms of four and a half inch rope.

Q. Did the Miller Salvage Company people use your steam winch? A. Yes, they did at times.

Q. Did they use it much or little?

A. A good bit.

Q. Did you not interfere with their using it?

A. I did the first time they used it because I did not give instructions for it to be used. No one came and asked me to use the winch and I interfered with them at that time.

Q. Told them not to use it?

A. No, I did not, but I asked them what they were using the winch for, for to heave that tackle tight.

Q. And most of the work was done by hand capstan? A. No, it was not.

Q. Do you know what caused the damage to the davits on your boat? A. What?

Q. You have spoken of damage to the davits on the "Celtic Chief," do you know what caused that?

A. Yes.

Q. What was it?

A. One of Captain Miller's schooners.

Q. How was that caused?

A. He got his bowsprit foul coming alongside.

Q. And the swell of the sea caused the vessels to come in contact? [474—139]

(Deposition of John Henry.)

A. He was bringing her alongside at the time but he let the stern swing round and brought the bows of the schooner right between the davits.

Q. And the swell was running at the time?

A. And swell that was would have kept the vessel over and off my ship; if they had looked after her she would not have been able to turn round.

Q. There was a swell running at the time, was there not? A. Not very much; just a little.

Q. Did you have any talk with Captain Miller about whether he should lighter the ship "Celtic Chief" first or whether he should put out an anchor astern first and hold her? A. Quite so; yes.

Q. What did you tell Captain Miller to do and what was done?

A. I asked him if he could get that anchor out.

Q. Did you ask him first to lighter cargo?

A. I did not ask him; I asked him the second time when we were speaking about the anchor.

Q. And he told you, didn't he, that you ought to get an anchor out astern?

A. Yes, and I asked him if he could get that anchor out.

Q. And you asked him to get it? A. Yes.

Q. And he did get it?

A. Not at that time; it was Wednesday morning that the anchor was dropped astern, after eight o'clock.

Q. And it was dropped where you wanted it?

A. It was dropped where I wanted it at that time.

[475—140]

Q. Did Captain Miller do any lightering at all

(Deposition of John Henry.)

after you had told him to get that anchor out?

A. Yes, started lightering right away.

Q. After you told him to get the anchor out—when was this conversation about getting the anchor out?

A. Eight o'clock on Monday morning.

Q. Was it not Tuesday?

A. No, eight o'clock on Monday morning.

Q. Well, didn't you complain to Captain Miller on Tuesday morning that he was not back there lightering the boat? A. Yes.

Q. And was not that the time you told him to get the anchor out? A. No, it was not.

Q. Had you given him any orders to get the anchor out at that time, prior to Tuesday morning?

A. I understood when he left the ship that he was going to get the anchor out and send lighters to the ship at the same time.

Q. On Tuesday morning, then, do I understand you to say you had no conversation with Captain Miller?

A. I never saw him on Tuesday morning.

Q. On Wednesday morning?

A. Yes, on Wednesday morning, I did.

Q. You did not see Captain Miller at all on Tuesday? A. No, I did not.

Q. Wednesday morning you saw him, and what did you say about this lightering and getting out the anchor, if anything?

A. I asked him why he had not the lighters back as he promised on Tuesday morning at 2 o'clock when he left with [476—141] the "James Makee" and he told me he was getting the cargo discharged out

(Deposition of John Henry.)

of the other launches that he had loaded and getting the anchor down into his steamer.

Q. Didn't the Miller Salvage Company boats run a line to you on Tuesday?

A. Tuesday night after nine o'clock, yes.

Q. They got a line to you?

A. I don't know who it was.

Q. Well, there was a line?

A. It was only a small three-inch line.

Q. What time?

A. Somewhere about nine o'clock.

Q. Dark? A. Yes.

Continued Cross-examination by Mr. LEWIS.

Q. Captain Henry, these stars that were shot off on board the "Celtic Chief," on the evening of Wednesday, do you know anything about the color of those stars, whether they were all white or some were red, or anything of that character?

A. I believe they were different colors.

Q. At this time have you any definite recollection of the times that the stars of the various colors were shot off? A. The various times?

Q. Yes, the various times.

A. No, I cannot say.

Q. What I understand you to say is your recollection of the matter is that there were stars of different colors shot off during the evening there, but just the rotation in which [477—142] these stars of various colors were shot off you cannot at this time definitely say—that is correct, is it not?

A. That is correct; I cannot state.

Q. You personally, Captain, did not have anything

(Deposition of John Henry.)

to do with the giving of the orders for shooting off those stars? A. No, I did not.

Q. That was something done by the German officers? A. Yes, that is so.

Q. And as far as that part is concerned you were a spectator?

A. As far as those stars are concerned, yes.

Q. You had nothing to do with the directions of shooting off those stars? A. No.

Q. And what orders were given in regard to the shooting off of those stars were given by the German officers as far as you know? A. Yes.

Q. Relative to the question of soundings which was brought out on cross-examination, you said that there was three and a half fathoms of water all round your vessel? A. Three and a quarter I said.

Q. Now, will you kindly tell me from what portions of the ship these soundings were made? In other words, what was the sounding off her bow—did you take a sounding off her bow?

A. Yes, right round her.

Q. What particular portion of the ship would you designate as the portion where you took your first sounding? A. The first sounding? [478—143]

Q. Yes. For instance was your sounding over the bow near your anchor davit?

A. No; we started on the main deck just abreast of the poop deck.

Q. That is going from aft forward? A. Yes.

Q. Now, begin there and tell me the soundings, defining the soundings by relation to some portion of the side of the ship—in other words, where did you

(Deposition of John Henry.)

take your first sounding aft—beginning aft and going forward?

A. I took it abreast of the forward poop rail.

Q. What was that sounding?

A. Three and a quarter.

Q. Where did you take the next sounding?

A. About abreast of the boat davit.

Q. What was that sounding?

A. Three and a quarter.

Q. Where did you take the next one?

A. Various positions right along the ship.

Q. And it was all the same?

A. Yes, and right round and back round the other side.

Q. What is the draft of your ship?

A. Twenty-one feet aft, and twenty feet ten inches forward.

Q. Twenty-one feet aft and twenty feet ten forward? A. Yes.

Q. What was your ship drawing just prior to the time that you went on the reef?

A. That was my draft of water leaving Hamburg, but what it was when I got here I never had any opportunity to take it. [479—144]

Q. Then, as I understand you, the draft of twenty-one feet aft and twenty-ten forward was the draft of your vessel loaded when you left Hamburg, just prior to your leaving Hamburg?

A. That is right.

Q. You have not any reason to believe that the draft changed at all during the voyage?

A. It would change a little.

(Deposition of John Henry.)

Q. Very slightly? A. Yes.

Q. So that was practically your draft prior to your stranding? A. Yes.

Q. What was the draft of your vessel when you were alongside of the wharf, anchored in the harbor of Honolulu after the stranding?

A. That I could not say. I could not even see the figures on the stem and stern.

Q. Well, didn't you in some way endeavor to find out what you were drawing?

A. No, I did not at that time, the cargo was lightened a good bit; the cargo lightened the ship a good bit.

Q. You say that the cargo that was taken out would lighten it a good bit?

A. Yes, very considerably.

Q. Now, you have testified as to the amount of cargo which was taken out of that ship and you have also given me the draft of that ship prior to the time she went on the reef, now I ask you from your experience as a master mariner, having an intimate knowledge of this ship, which you have testified [480—145] that you have, what in your opinion would be the difference in draft of your vessel before she went on the reef and just after she was pulled off?

By Mr. OLSON.—OBJECTION, on the ground that it is indefinite in that it does not show from what position on the vessel the cargo was lightened, nor the quantity at any particular part of the vessel.

By Mr. LEWIS.—I have endeavored in my question propounded to the witness to include and I now

(Deposition of John Henry.)

include this question.

Q. Your knowledge, taking into consideration your knowledge of the amount of cargo that was taken out of the vessel and the portions of the vessel from which it was taken out?

A. (By WITNESS.) About two feet; eighteen inches to two feet.

(By Mr. LEWIS.)

Q. About two feet?

A. From eighteen inches to two feet.

Q. From your knowledge of your own ship, can you give me or state the corresponding lift or rise in your vessel with the number of tons that you took out?

A. No, I have not got a draft scale.

Q. Well, you know in lightening your ship or in taking out cargo from your ship what your vessel will rise or lower in the water, don't you?

A. Not to say exactly; I cannot tell. If I had a draft scale I could tell, but I have no draft scale aboard the ship.

Q. Can you approximate it? [481—146]

A. I cannot say; about nine or ten tons to the inch. It is generally about that.

Q. Then, as I understand you, your best judgment is that the lightening of the cargo from the "Celtic Chief" while she was on the reef caused her to be raised from eighteen inches to two feet?

A. Quite so; yes.

Continued Cross-examination by Mr. WEAVER.

Q. I would like to ask you how you determined the nature of the bottom under that ship, you said

(Deposition of John Henry.)

you thought she was on a soft bottom—what observation did you make? A. By the lead.

Q. How can you tell by the lead what the bottom is?

A. That is always the way. There is a hole in the lead and you fill that with tallow or any substance that will stick to the bottom and that will give you the nature of the bottom down below.

Q. And is that all you based your observation upon?

A. That is all and by the pilot's saying what the bottom was.

Q. When you sounded each time was your lead armed or prepared with the necessary tallow?

Q. Yes, it was prepared with the necessary tallow.

Q. What did you find when you pulled up the lead?

A. Sand and a kind of shell and broken coral.

Q. And on that you based your observation that it was not a reef but a sandy soft bottom?

A. Yes, and that is what the pilot told me it was.
[482—147]

By Mr. LEWIS.—I MOVE to strike out that portion of the witness' answer in which he says—"That is what the pilot told me it was."

By Mr. MAGOON.—We join in that.
(By Mr. WEAVER.)

Q. What was the consignee's name?

By Mr. OLSON.—I OBJECT to the question, unless it is first shown that the Captain knows.

(By Mr. WEAVER.)

Q. Do you know the consignee's name?

A. The Hawaiian Fertilizer Company.

(Deposition of John Henry.)

Redirect Examination of Captain HENRY.

(By Mr. OLSON.)

Q. Apropos of the question that was asked you on cross-examination by counsel for the Inter-Island Steam Navigation Company and Matson Navigation Company as to whether or not the distance between the German cruiser and the "Celtic Chief" diminished upon the floating of the "Celtic Chief," I want to ask you whether or not the distance diminished between the buoy which showed the location of the anchor and the "Celtic Chief" whether the distance between that buoy and the "Celtic Chief" diminished when she came afloat, or did the anchor line remain taut, showing that the anchor moved seaward together with the floating of the "Celtic Chief"?

A. No, the anchor did not float with the "Celtic Chief."

Q. Do you conclude from that that the anchor did nothing in the floating of the "Celtic Chief"?
[483—148]

A. Well, she may have helped at the first a bit.

Q. Then the same would be true, would it not in the case of the German cruiser, provided she had anchors out? A. Quite so.

Q. It would not necessarily follow that because the distance between the "Celtic Chief" and the cruiser diminished that therefore the German cruiser was not exerting any power upon her lines attached to the "Celtic Chief"? A. Not at all.

By Mr. MAGOON.—OBJECTION, on the ground that it is a mere conclusion of the witness and hav-

(Deposition of John Henry.)

ing no probative value; and I MOVE that it be stricken out.

By Mr. LEWIS.—I OBJECT, on the ground that it is argumentative and also that it is incompetent, irrelevant and immaterial; and I also join in the motion to strike.

(By Mr. OLSON.)

Q. What happened to the strain on the line from the Miller anchor to the "Celtic Chief" when the "Celtic Chief" was afloat, as to whether or not it was still kept taut or whether it slackened?

A. No, it was all slack in the water after she was floated.

Q. Well, at the time she floated?

A. It was all slack in the water at that time.

Q. You stated on cross-examination that the distance between the "Mikahala" and the "Intrepid" before the "Arcona" came out and took her position was approximately fifty or sixty feet, are you sure that is or was the distance? [484—149]

A. No, I am not sure.

Q. Simply approximate?

A. Yes, simply approximate.

Q. Is the same true of the distance to which you testified between the "Intrepid" and the "Helene"?

A. The same applies to that.

Q. Referring to the wire hawser that was used by the German cruiser in towing upon the "Celtic Chief," which belonged to the "Celtic Chief," you have testified that after this line parted it was spliced together? A. Yes.

Q. Were the parts after the parting of that line

(Deposition of John Henry.)

used for the purpose of making a spliced line, after the splicing? A. Yes, the two parts.

Q. So that it was the same line as used before, except that it had been spliced together where it was parted? A. Yes, that is all.

Q. Where was that line, as far as you know, attached to another wire line belonging to the cruiser, at the cruiser's end of the line, between the cruiser and the "Celtic Chief"; was it on board the cruiser?

A. I believe it was on board the cruiser.

Q. Are you sure that another line belonging to the cruiser was actually attached to the end of that line of your own knowledge?

A. Not to my own knowledge; no.

Q. About what time was it that an equal strain was acquired by the cruiser upon her two lines attached to the "Celtic Chief" on the evening of December 8th?

A. About eight o'clock; somewhere about that.
[485—150]

Q. Did you notice those lines about that time?

A. Yes, I did.

Q. What was their condition with reference to their position in the air, as to whether or not they had a bight in them or whether they were taut?

A. At that time I could not see right along to the stern of the cruiser, but from my observation aboard the ship looking at them, and as far as I could see, they were tight.

Q. How far out could you see, how many fathoms?

A. About twenty fathoms; from twenty to thirty fathoms. I won't say exactly.

(Deposition of John Henry.)

Q. What was the position of those lines for that distance as to whether or not they dipped down or extended straight out?

A. As far as I could see they extended straight out.

Q. Did you test those lines with your foot or your hand? A. I did not do so; no.

Q. About what time of day and what day did these lighters of the Miller Salvage Company come out to the "Celtic Chief" and moor themselves alongside?

A. On Monday about ten o'clock was the first.

Q. How long did they continue moored alongside of the "Celtic Chief"?

A. There was one left in the afternoon; the first one.

Q. Where were they moored alongside the "Celtic Chief"?

A. Alongside of the main hatch—each side of the main hatch.

Q. One on either side of the vessel?

A. Yes, one on either side of the vessel.

Q. What would be the tendency of the mooring of those [486—151] vessels alongside the "Celtic Chief," with reference to putting her further on the reef or the contrary?

A. Well, they would have an inclination to put her further on the reef?

Q. The tendency would be to put her further on the reef? A. Yes.

Q. What would be the tendency of lightening the vessel without an anchor out astern or some force adequate to keep her from going further ashore?

(Deposition of John Henry.)

A. Well, the more the cargo was lightened the more she would go on the reef.

Q. Did the Miller Salvage Company do any lightering after they had their anchor out?

A. No, none.

Q. Did you discuss with Captain Miller the possibility of lightering without an anchor out astern?

A. Not at that time.

Q. Did he advise that lightering should take place?

A. Yes, he did advise that.

Q. Although there was no anchor out astern?

A. Yes, that is so.

Q. What was the purpose of this?

A. It was to try and float the vessel to get her off the reef if possible.

Q. That was Captain Miller's advice, was it?

A. Yes.

By Mr. MAGOON.—OBJECTION, on the ground that both questions are leading, and I ask to have the answer stricken out on that ground. [487—152]

(By Mr. OLSON.)

Q. Well, what was Captain Miller's advice?

(The two previous questions by Mr. Olson here withdrawn.)

Q. What was Captain Miller's advice with reference to lightering?

A. Well, when he came aboard he told me he had a large anchor and that if he could get it off and put out astern, to lighten the ship, it would be the only thing we could do to get the vessel off.

Q. When did he begin the lightering?

A. He began the lightering about ten o'clock.

(Deposition of John Henry.)

Q. On what day? A. On Monday.

Q. When did he stop lightering?

A. Tuesday morning at 2 A. M.

Q. When did he put his anchor out?

A. On Wednesday morning.

Q. The following day?

A. Yes, Wednesday morning, the following day.

Q. You have spoken of occasional bumping of the "Celtic Chief" while she lay stranded on the reef; what was the nature of this bumping? How would she bump?

A. Well, just the usual bumping of the vessel with perhaps the incoming tide, or anything like that, she might bump then.

Q. Did she bump hard as if she was damaging herself?

A. Two or three times she did bump hard.

Q. Otherwise these occasional bumps that you have spoken of, what about that?

A. That would not hurt the ship. [488—153]

Q. You have testified to having gone down into the cabin to take lunch on the night of Wednesday, December the 8th; what time was it that you went down into the cabin to take lunch that evening?

A. Shortly after eleven o'clock.

Q. Was it later than eleven-thirty?

A. No, it was not later than eleven-thirty.

Q. Was it about eleven-thirty?

A. Yes, before eleven-thirty.

Q. How long were you in the cabin?

A. About ten minutes.

Q. When was it that you first observed that the

(Deposition of John Henry.)

“Celtic Chief” began to move apparently seaward?

A. Shortly before twelve o’clock.

Q. About twelve o’clock? A. Yes.

Q. How long did it take before she was actually afloat from the time that you could observe that she was actually moving or apparently moving seaward?

A. About twenty minutes.

Q. Will you describe what was the effect upon the lines of the cruiser from this seaward movement of the “Celtic Chief”?

A. Well, at times they would be slack.

Q. Then what would happen?

A. Then they would tighten up again.

Q. How long did this go on?

A. Until the vessel was afloat.

Q. Until she was afloat? A. Yes.

Q. What was the effect upon the Miller Salvage Company’s line? [489—154]

A. It was quite slack and hanging in bights after she started.

Q. Would it at times be hove in and made taut?

By Mr. WEAVER.—OBJECTION, on the ground that it is leading.

A. (By WITNESS.) Not after she started.

(By Mr. OLSON.)

Q. During those twenty minutes that she was moving seaward?

A. No, they were not heaving in on that; the line was not hove in on.

Q. You have stated that the plan was to pull upon the “Celtic Chief” at high water on Wednesday night between one and two o’clock, when did high

(Deposition of John Henry.)

water begin to come in?

A. About six hours before that.

Q. Well, when had the tide begun to make itself actually felt, by what time?

By Mr. MAGOON.—OBJECTION, on the ground that it is calling for a conclusion of the witness and also that the witness has not qualified as an expert on tides in Honolulu.

(By Mr. OLSON.)

Q. How long have you been a seafaring man?

A. Twenty years.

Q. Where have you sailed in those twenty years?

A. All over the world.

Q. What observation have you made of tides in various parts of the world?

A. I have taken a good deal of observation in different parts of the world. [490—155]

Q. Did you notice the tides while you were ashore on the reef in the harbor of Honolulu?

A. I noticed they were very small; not much rise and fall.

Q. Did you observe the tide that Wednesday night?

A. No, I cannot say that I did observe it very much.

Q. You could not state then when the tide actually began to come in with any material force? A. No.

Q. This object which you have testified to ashore as one of your range marks—are you sure what that object actually was—could you identify it or did you identify it as any particular thing at the time?

A. No; no particular thing at the time.

(Deposition of John Henry.)

Q. Was there any question about the identifying of that mark from time to time as you were on the "Celtic Chief" ashore?

By Mr. MAGOON.—OBJECTION, on the ground that it is immaterial and not proper redirect examination.

A. (By WITNESS.) No, there was no trouble.

(By Mr. OLSON.)

Q. There was no trouble?

A. No, none whatever.

Recross-examination by Mr. WEAVER.

Q. What day was it when Captain Miller came aboard and had this talk with you about the anchor and salving? A. Monday morning.

Q. Monday, and not Tuesday? [491—156]

A. Monday morning, yes.

Q. Sure of that? A. Quite sure; yes.

Q. As a matter of fact, was it not Tuesday morning when Captain Miller told you about the anchor?

A. No, it was Monday morning at the time he spoke about lightering.

Q. On Monday morning didn't Captain Miller ask you in effect what would keep your ship from going further on the reef if your ship was lightened without an anchor astern?

By Mr. OLSON.—OBJECTION, on the ground that it is improper recross-examination, neither the examination by myself on redirect nor the recross-examination by counsel for the Inter-Island Steam Navigation Company or Matson Navigation Company having dealt with phase of the testimony.

A. (By WITNESS.) No, he did not.

(Deposition of John Henry.)

(By Mr. WEAVER.)

Q. Didn't you tell Captain Miller that the steamers would hold the "Celtic Chief" while the company was lightering her?

By Mr. OLSON.—OBJECTION to the question, on the same ground.

A. (By WITNESS.) No, I did not. I would like to state in that last question you asked me that from Tuesday at 2 A. M., the time he left the ship, I did not see Captain Miller at all.

Recross-examination by Mr. LEWIS.

Q. (None.)

(Adjournment was taken at 12:10 until 9 o'clock on Monday morning, the 31st day of January, at the office of the Clerk of the United States District Court.) [492—157] ~

[Endorsed]: No. 116. Libelee's (Deposition of Capt. Henry). Filed Dec. 18, 1911. [493]

[Deposition of J. J. Lowry, for Libelee.]

Monday, January 31st, 1910 (9 A. M.).

The parties in the above-entitled cause met, pursuant to adjournment, at the office of the Clerk of the United States District Court, and by agreement immediately adjourned to the Chambers of the Second Judge of the United States District Court, where the following proceedings were had:

J. J. LOWRY, called for libellee, sworn.

(By Mr. OLSON.)

Q. What is your name?

A. John James Lowry.

Q. What is your occupation?

A. Mariner; I am first mate of the "Celtic Chief."

(Deposition of J. J. Lowry.)

Q. What nationality is the "Celtic Chief"?

A. British.

Q. Where is she at the present time?

A. Honolulu, at the Hackfeld wharf.

Q. When did she come to Honolulu?

A. December the 5th.

Q. December the 5th? A. Yes.

Q. Did anything happen to her coming in to the harbor of Honolulu? A. She went on the reef.

Q. How long have you been at sea, Mr. Lowry?

A. How long have I been at sea?

Q. Yes. A. Sixteen years.

Q. How long have you held *at* first officer's papers.

A. Five years.

Q. How long have you been first mate of the "Celtic Chief"? [494—158]

A. Six months, I think.

Q. Were you employed on the "Celtic Chief" before that time? A. No.

Q. Your first cruise in the "Celtic Chief"?

A. Yes.

Q. Do you know the tug "Intrepid" located at Honolulu? A. Yes, I do.

Q. Did she have anything to do with the "Celtic Chief" while she was aground?

A. Yes, she came out on the Monday morning and put a rope on board.

Q. What kind of a rope?

A. A three and a half inch wire, about ten fathoms long. It was shackled on to a manila spring of about fifty fathoms long, about a ten-inch rope.

Q. How long did she have her line attached to the "Celtic Chief"?

(Deposition of J. J. Lowry.)

A. From seven o'clock on Monday morning, or about eight o'clock Monday morning until half-past twelve on the Wednesday.

Q. On Wednesday? A. Yes, Wednesday.

Q. What happened at that time on Wednesday?

A. We wanted him to slack up and let go his rope and he would not do it, so we had to cut the wire on the bitt.

By Mr. LEWIS.—I ask that the answer, "We wanted him to let go his rope," be stricken out as hearsay, unless it is shown that the mate is testifying to his own knowledge. [495—159]

(By Mr. OLSON.)

Q. Well, I will do that now—state if the "Intrepid" was asked to slack up and let go his rope—how do you know that?

A. How do I know that he was asked?

Q. Yes, how do you know that?

A. I hailed the ship myself.

Q. About what time was that?

A. I cannot swear to any time but it would be about noon or half-past twelve.

Q. About noon on Wednesday? A. Yes.

Q. How did you happen to tell the "Intrepid" to slack up so that you could let loose?

A. The captain told me to hail the tug; he had a sore throat at the time and could not shout very loud, and wanted me to hail the ship.

Q. What did you say?

A. I don't know the exact words now; I forget the exact words; I sang out to them to slack up as we wanted to let go.

(Deposition of J. J. Lowry.)

Q. What did the tug answer, if anything?

A. He said no.

Q. Was the tug hailed any more that you know of?

A. No, I don't think it was hailed again; the captain sent a letter across to him.

Q. Who cut the wire hawser of the "Intrepid," at the bitts of the "Celtic Chief," where that line was attached? A. The second mate and I cut it.

Q. Pursuant to whose orders?

A. The captain's orders. [496—160]

Q. Captain Henry?

A. Yes, Captain Henry.

Q. What happened when you cut that line?

A. It ran out and stuck in the port chock—in the starboard wharfing chock.

Q. How did it stick there?

A. I don't know how it jammed, but it stuck there.

Q. Describe just how the line left the bitts towards the wharfing chock as to rapidity or slowness.

A. Well, it ran out slowly; as soon as we cut the wire I was expecting to see it jump over the side the same as any other line, but instead of that we had to shove it clear of the stern.

By Mr. LEWIS.—I ask that that portion of the answer "We were expecting it to jump over the side" be stricken out, on the ground that it is incompetent, irrelevant and immaterial.

By Mr. OLSON.—I oppose that motion.

Q. Did you observe that line at any time between the time it was attached to the "Celtic Chief" on Monday morning and the time it was cut loose on Wednesday?

(Deposition of J. J. Lowry.)

A. Yes, I could not help observing it.

Q. How often did you observe it?

A. Frequently, but I could not say how often; I suppose about five or six times an hour anyway. I got into a kind of habit of testing all the lines.

Q. Did you test the "Intrepid's" line?

A. Yes.

Q. What was the result of those tests? [497—161]

A. We decided there was no weight on it.

Q. How could you tell there was no weight on it?

A. You could press it right down to the deck; it was about one foot clear of the deck.

Q. How did you test it?

A. Put my foot on it and pressed it right down to the deck.

Q. State whether or not there was any difficulty in pressing it down to the deck.

A. None at all at any time I tried.

Q. Did you observe that line, the condition of that line between the "Celtic Chief" and the "Intrepid" as to whether or not there was a bight in it at any time? A. There was a bight in it always.

Q. State whether or not it was in the water.

A. It was not in the water all the time but it was touching the water. When the tug fell the rope would go in the water, as the tug is low in the water herself; there was a bight in the line all the time.

Q. Do you remember what other boats had lines on the "Celtic Chief"?

A. Yes; the "Mauna Kea," the "Mikahala," the "Helene," and "Likelike"; I think that is all.

(Deposition of J. J. Lowry.)

Q. Those are Inter-Island boats, were they not?

A. Yes, Inter-Island boats.

Q. How long did the "Mauna Kea" have her line aboard?

A. From about ten or eleven o'clock on the Monday morning until eight o'clock on Tuesday morning, I think.

Q. Did you observe her line?

A. Yes. [498—162]

Q. State whether or not it had any strain on it.

A. Yes, there was a big weight on the "Mauna Kea's" line all the time.

Q. What kind of a line did she have?

A. A twelve-inch manila hawser.

Q. Did you observe the "Mikahala's" line?

A. Yes.

Q. How long was that line attached to the "Celtic Chief"?

A. From about ten or eleven o'clock on the Monday morning until the time she floated; that would be twelve o'clock on Wednesday night.

Q. How often would you observe that line?

A. Very frequently; as often as I tested the "Intrepid's" line.

Q. How often would you test it?

A. Four or five times an hour, anyway; I could not say exactly.

Q. What was the result of those tests as to whether or not there was any strain on that line?

A. There was a weight on the "Mikahala's" line but nothing very extraordinary.

Q. Would you test that in the same way that you

(Deposition of J. J. Lowry.)

did the "Intrepid's" line?

A. Yes, but I could not press that one down to the deck.

Q. Could you press it any distance?

A. Yes, I could press it down three or four inches.

Q. State whether or not there was any bight in that line.

A. Yes, there was a slight bight in that one.

[499—163]

Q. Did you observe the "Helene's" line?

A. Yes.

Q. How long was her line on?

A. She took the "Mauna Kea's" rope.

Q. And continued how long?

A. She continued towing until we floated.

Q. Did you observe that line? A. Yes.

Q. Frequently? A. Yes.

Q. Test it? A. Yes.

Q. And what was the condition of that line as to whether or not there was any strain on it?

A. There was a good weight on that line but nothing like what the "Mauna Kea" had on it.

Q. How as compared with the "Mikahala's" line?

A. I think about the same strain as the "Mikahala"; it was a heavier and bigger rope.

Q. Did you test that with your foot? A. Yes.

Q. What was the result of those tests?

A. Pretty tight. There was not a very great weight on it and nothing to be compared with what the "Mauna Kea" had.

Q. Could you press it down to the deck?

A. Yes, you could press it to the deck at any time.

(Deposition of J. J. Lowry.)

Q. What about the "Likelike's" line?

A. Not a great deal of weight on the "Likelike's" line.

Q. How could you tell that?

A. By testing it with my foot. [500—164]

Q. What could you do with your foot?

A. Press the rope right down to the deck.

Q. State whether or not there was any bight in that line during the time she was attached.

A. That was in the water the best part of the time, and there was a slight bight in that.

Q. Do you know the German cruiser "Arcona"?

A. Yes.

Q. Did she have anything to do with the "Celtic Chief" while she was ashore?

A. Yes, the "Arcona" put two wires to us.

Q. When did she first come to the assistance of the "Celtic Chief"?

A. About midday on the Wednesday.

Q. What did she do when she came out?

A. She ran two wires to us; she ran one and we gave her the other.

Q. What position did she take?

A. She was right astern of the ship.

Q. What had happened to the "Intrepid" at that time?

A. I don't know; she had gone somewhere but I don't know where she went.

Q. The cruiser took the "Intrepid's" position?

A. Yes.

Q. What lines did the cruiser use?

By Mr. LEWIS.—I will have to ask that that ques-

(Deposition of J. J. Lowry.)

tion—your leading question—as long as you say approximately, because she did not go in the same position as the "Intrepid."

(By Mr. OLSON.)

Q. As to the position taken by the cruiser, what position [501—165] with reference to the "Celtic Chief" did she take? A. Right astern.

Q. And that is what you mean by stating that she took the position that the "Intrepid" had?

A. Yes, that is so.

Q. State what wires the cruiser used.

A. A four and a half inch wire from us; our wire.

Q. When did she put that aboard?

A. About three or half-past three in the afternoon we got that fast.

Q. Then what happened, that afternoon of what day? A. Wednesday.

Q. Then what happened when she got that fast?

A. She went ahead and broke it.

Q. I will hand you this piece of wire hawser which is marked "Re 'Celtic Chief,' Claimant's Exhibit, Captain Henry, B," and ask you to examine it—do you recognize that wire? A. Yes.

Q. What is it?

A. Part of our wire; the part of the wire that the cruiser "Arcona" broke.

Q. About what time did that line break after the cruiser had put it aboard the "Celtic Chief"?

A. About half-past three in the afternoon.

Q. Then what did she do?

A. She took it aboard and spliced it.

Q. The broken pieces? A. Yes.

(Deposition of J. J. Lowry.)

Q. And then what did she do?

A. Then she put her wire aboard of us.

Q. What did she do with the ship's wire that had been [502—167] broken and spliced?

A. Made that fast again.

Q. Made fast to what again? Fast to what ship?

A. Fast to the "Celtic Chief."

Q. To what did she make fast her own line that you spoke of, also to the "Celtic Chief"? A. Yes.

Q. What kind of a line was the line that the cruiser put aboard besides the "Celtic Chief's" wire that she was using? A. A four and a half inch wire too.

Q. Where were these lines attached to the "Celtic Chief," if you know?

A. One around the mainmast and the other round the mizzenmast.

Q. On what side of the "Celtic Chief"?

A. The "Arcona's" rope was on the starboard side and our own rope on the port side.

Q. Then what did she do after she had those two lines made fast to the "Celtic Chief"?

A. She tightened them up and got a big weight on them.

Q. When did she get them tightened?

A. That would be about six o'clock before the strain was on the two wires.

Q. Then what happened?

A. I am kind of hazy around about there; I cannot remember it; this all happened a month ago.

Q. Did you observe these wires at any time after that? A. Yes.

Q. What was the condition of those wires with ref-

(Deposition of J. J. Lowry.)

erence [503—168] to the question of whether or not there was any strain on them?

A. They were tight all the time; they were tight enough to crush two strong-backs we had up and down the mainmast.

Q. Did you observe these lines out from the "Celtic Chief"? A. Yes.

Q. What was their direction and position?

A. I know the direction they were leading from our ship to the "Arcona."

Q. Astern? A. Yes.

Q. What position did they have as to whether or not there was any bight in them, or whether or not they were straight out?

A. They were straight out; tight all the time.

Q. How long were you on watch that Wednesday night?

A. Wednesday night I laid down about ten o'clock until about half-past eleven.

Q. From ten o'clock until about half-past eleven you lay down? A. Yes.

Q. Were you asleep? A. Yes.

Q. Did you notice whether or not the German cruiser "Arcona" had a search-light playing on Wednesday night? A. Yes.

Q. What time did it begin to be used?

A. A little before ten o'clock; a little before I lay down.

Q. Could you see the cruiser's wires prior to the time that the search-light was put on? [504—169]

A. Yes.

(Deposition of J. J. Lowry.)

Q. How could you see them without the aid of a search-light?

A. It was a clear night and you could see the wire against the background of the water.

Q. Did you observe those wires after the search-light began to be used? A. Yes.

Q. State how much of a strain there was on them, if you know.

A. There was a big weight on the wires all the time.

Q. What was the condition of affairs when you came out again at half-past eleven o'clock, after you had your sleep?

A. They were preparing to make a hard pull with all the tugs. But I don't know; I went away forward to stand by the anchor; we expected her to go off then.

Q. When did the "Celtic Chief" come off?

A. Between twelve and half-past twelve o'clock.

Q. When did she begin to move according to your observation? A. About twelve o'clock.

Q. Do you know how much of a strain there was on the various lines from the time she began to move until the time she came off?

A. No; I was forward then and I don't know anything about what happened aft.

Q. When she came off what happened—what was done when she came off?

A. I don't know what was done aft; I was forward there.

Q. Still forward? A. Yes. [505—170]

Q. Do you know Captain Miller? A. Yes.

(Deposition of J. J. Lowry.)

Q. When did you first see him?

A. Between seven and eight o'clock on Monday morning.

Q. What did he have to do with the "Celtic Chief"?

A. Well, he came off and offered to lighten the ship up and run his anchor out astern and get the ship off the reef.

Q. What did he do?

A. He went ashore again about nine o'clock, I think. About half-past eight he went ashore again. About ten o'clock he brought out a gang of laborers and a lighter and commenced to discharge cargo out of the main hatch over our starboard side.

Q. It might have been the port side?

A. It might have been; I would not swear to that.

Q. What was the condition of the weather at that time when the lighter of the Miller Salvage Company began to receive cargo from the "Celtic Chief"?

A. Fine weather. There was a slight southerly swell.

Q. How long did that lighter continue to receive cargo from the "Celtic Chief"? A. I forget now.

Q. Did you observe whether or not any damage was done to the Miller Salvage Company's lighters or boats while at work discharging cargo from the "Celtic Chief"?

A. Yes, the "Concord" broke her forward wharfing chock.

Q. How did she do that?

A. She was ranging about on the swell.

Q. Well, was that damage avoidable?

(Deposition of J. J. Lowry.)

A. Well, hardly avoidable under the circumstances. [506—171] The schooner was ranging about and the weight of the rope broke the wharfing chock. It was hardly avoidable.

Q. State whether or not that damage was due to the fact that the "Celtic Chief" was outside of the harbor. A. Yes.

Q. Caused by what?

A. Caused by the slight swell that was running in over the reef.

Q. Was there any other damage done?

A. The other lighter was scraped outside, scraped along her side; but that was nothing, she just scraped the paint off.

Q. Was that avoidable?

A. Yes, that could have been avoided.

Q. How could that have been avoided?

A. If they had had fenders over the side that would not happen.

Q. What was the condition of the weather throughout the time that the "Celtic Chief" was ashore on the reef? A. It was fine weather all the time.

Q. Was there any sea running?

A. There was a light southerly swell the whole time we were there.

Q. Was there any wind blowing?

A. Light northerly airs; northeasterly airs.

Q. State whether or not there was any danger to any of the boats that were used during the salvage operations. A. No danger; no danger to anyone.

Q. Was there any danger to the persons who were engaged in the salvage operations? [507—172]

(Deposition of J. J. Lowry.)

A. No, there was no danger.

Q. State whether or not there was any difficulty in lightering the cargo from the "Celtic Chief" to Captain Miller's lighters.

A. No great difficulty, not to Captain Miller's lighters.

Q. Was there any lightering done? A. Yes.

Q. By whom?

A. The Inter-Island Company.

Q. When did that begin?

A. That began about ten o'clock on Tuesday morning.

Q. How long did that continue?

A. Right up to the time we floated.

Q. Was there any danger to the Inter-Island boats used in lightering?

A. Yes, it was pretty risky work.

Q. How?

A. The swell running alongside the ship and these small boats.

Q. Was there any damage done to them?

A. No, I did not notice any damage.

Q. What danger was that?

A. Well, there was the danger to the men in the boats; a sling of bags hanging over the side and the boat jumping about and they had to land that sling into the boat and it was pretty risky.

Q. What kind of boats were used?

A. Surf boats.

Q. Belonging to the Inter-Island steamers?

A. Yes.

(Deposition of J. J. Lowry.)

Q. When did Captain Miller's boat stop lightering? [508—173]

A. At half-past two o'clock on Tuesday morning.

Q. Did Captain Miller of the Miller Salvage Company do anything else besides lightering the "Celtic Chief"? A. Yes, they ran an anchor out astern.

Q. When was that anchor run out astern?

A. On the Wednesday.

Q. About what time? A. About midday.

Q. When did they get a strain on Captain Miller's line attached to that anchor?

A. About five o'clock on Wednesday evening.

Q. Did you observe that line? A. Yes.

Q. What was its condition as to whether or not there was a strain on it?

A. There was a big strain on the line.

Q. How was that strain put on that line?

A. Two, three-fold tackles and hove tight.

Q. Whose tackles were they?

A. Captain Miller's tackles.

Q. Whose lines were used?

A. He got some rope and wire from us.

Q. Whose blocks were used?

A. There was three blocks belonging to us used.

Q. How were those tackles used in order to heave in the anchor line?

A. One lead right along the deck from the forward bitts, and on the hawser.

Q. How were they hove in?

A. Hove with our steam and with our capstan; sometimes [509—174] using the steam winch and sometimes using the capstan.

(Deposition of J. J. Lowry.)

Q. Where was the capstan?

A. On the forecastle-head.

Q. How was that capstan operated?

A. By hand.

Q. Who operated it during the time that it was used in heaving in on Captain Miller's line?

A. Captain Miller's own men.

Q. Who was running the steam winch?

A. Our carpenter and one apprentice.

Q. How was the cargo lightered that was discharged from the "Celtic Chief" to the Miller Salvage Company's lighters?

A. It was passed out by hand.

Q. Who did that? A. Captain Miller's men.

Q. How was the cargo discharged into the Inter-Island boats?

A. Hove up by the steam winch.

Q. Whose steam winch? A. Ours.

Q. Your own? A. Yes.

Q. Do you remember whether or not there was a donkey hoist and barge used in connection with the Inter-Island lightering? A. Yes.

Q. When was that used?

A. Commenced work about six o'clock on Wednesday evening.

Q. Was this steam winch on board the "Celtic Chief" used [510—175] all the time in discharging the cargo into the Inter-Island boats?

A. Yes.

Q. Did you do any sounding about the "Celtic Chief" while she was aground? A. Yes.

Q. What sounding did you do?

(Deposition of J. J. Lowry.)

A. I sounded all around the ship once myself.

Q. What was the result of your sounding?

A. I got three and a quarter fathoms.

Q. Where?

A. All round the ship; I never got any more or any less.

Q. What did you use for the purpose of sounding?

A. An ordinary hand lead line.

Q. Describe that lead.

A. It is a long piece of lead weighing about seven or eight pounds, on the end of a three-quarter inch line or one-inch line.

Q. Describe the bottom part of that lead.

A. It is hollowed out to a depth of about one inch.

Q. What is it hollowed out for?

A. To fill the hole up with tallow.

Q. What for?

A. To find out the nature of the bottom.

Q. Did you do that at this time that you were sounding about the "Celtic Chief"? A. Yes.

Q. What were the results?

A. Well, I judged the bottom to be sand and soft coral. [511—176]

Q. Why?

A. There was sand sticking to the tallow and some small flakes of coral rock.

Q. State whether or not that was true of all of your soundings around the vessel.

A. The same all around.

Q. How could you tell if your lead came up with the hollow holding portions of sand and coral whether or not it was the same the next time you

(Deposition of J. J. Lowry.)

used it? A. It was cleaned out every time.

Q. State whether or not the "Celtic Chief" lay quietly on the reef or whether she bumped at times.

A. She bumped lightly at times.

Q. How often?

A. Oh, I should say about every twenty minutes or so. It was not very often, anyway.

Q. What kind of a bump?

A. Just as if she had risen on the swell and fell and touched bottom.

Q. Hard or easily? A. Not very hard.

Q. When did you observe that she bumped the hardest?

A. The hardest bump she did was when she was going on the reef.

Q. Were you on the "Celtic Chief" at the time that the "Intrepid" first came out to the "Celtic Chief"? A. Yes.

Q. What happened when the "Intrepid" came out?

A. They hailed the ship and asked us if we were on the reef.

Q. What else? [512—177]

A. The captain said yes, we were, and he offered to tow us off.

Q. Then what?

A. The captain asked him how much it would be.

Q. What did he answer?

A. Twenty thousand dollars.

Q. What did Captain Henry reply?

A. He said the ship was not worth it.

Q. Then what happened?

(Deposition of J. J. Lowry.)

A. He came down to ten thousand dollars.

Q. Who came down to ten thousand dollars?

A. The captain of the "Intrepid."

Q. Then what did Captain Henry say?

A. He would not agree to that either.

Q. What did they then do?

A. He offered to let it all be settled ashore.

(At 10 A. M. a recess was taken until 10:30 A. M.)

Q. Did Captain Henry agree that the compensation, if any, should be settled ashore? A. Yes.

Q. When high tide Wednesday night?

A. About midnight.

Q. Might have been a little later?

A. About midnight; it might have been a little later but I could not swear about that.

Q. Was any of the cargo that was lightered damaged? A. Yes, some damaged.

Q. How was it damaged?

A. The bags were all torn.

Q. Is that true both of the Miller Salvage Company and the Inter-Island Steam Navigation Company? [513—178] A. Yes.

Cross-examination by Mr. LEWIS.

Q. The "Intrepid" made fast to the "Celtic Chief" by means of a hawser consisting of a three and a half inch wire attached to a manila hawser—that is correct? A. Yes.

Q. Now, was not this manila hawser twelve inch instead of ten inch, as you have testified?

A. It was not twelve inches; it was about ten inches, I should say; I did not measure it and I am only guessing.

(Deposition of J. J. Lowry.)

Q. You said in your direct examination that you tested the lines of the "Intrepid"—do you remember what time of the day and night it was that you tested those lines—you said five or six times?

A. I was testing it all the time. I said five or six times an hour.

Q. At all times during the day and night five or six times an hour?

A. Not at all times because I was asleep sometimes. It was a kind of a habit as I passed around the stern to put your foot on the rope. It is a habit you get into.

Q. You have testified in your direct examination that there was quite a strain on the "Mauna Kea's" line? A. Yes.

Q. That was attached to the mizzenmast?

A. Yes.

Q. And the place where it was attached is shown by the mark to-day, is it not? A. Yes.

Q. As a result of the "Mauna Kea" pulling on the mizzenmast of the "Celtic Chief" you will find quite an indentation [514—179] in the mast itself, will you not? A. Yes.

Q. That is practically an indentation in this mast of about one inch and three-quarters?

A. About that.

Q. What is the mizzenmast made of?

A. Steel. Quarter-inch plate, I think it is.

Q. This dickering that took place between Captain Henry and Captain MacAlister did not last more than ten minutes, did it?

A. No, about ten minutes.

(Deposition of J. J. Lowry.)

Q. Then from the time that the "Intrepid" appeared alongside or near the "Celtic Chief" and until this hawser was fast there was not more than a period of time of more than ten or fifteen minutes, was there? A. That is about all, I think.

Q. And as to the "Helene's" line, will you kindly tell me just exactly how that line was made fast on board the "Celtic Chief"?

A. The "Helene's" line?

Q. Yes.

A. The "Helene" took the rope that the "Mauna Kea" had.

Q. Well, I will reframe the question, as follows: Will you kindly tell me how the line which the "Helene" pulled on, which you have testified to as being the "Mauna Kea's" line, was made fast on board the "Celtic Chief"?

A. Yes; it came through the port wharfing chock and right across the poop with a complete round turn round the mizzen and two half hitches at the end on its own part, and the end lashed down with a small rope.

Q. A portion of that line ran across the deck of the [515—180] poop? A. Yes.

Q. A portion of it was lying on the poop, was it not? A. Yes.

Q. During the time that the "Helene" was pulling, at first she was pulling with a twelve-inch manila hawser made fast outboard to two parts of a twelve-inch manila hawser—no, hemp hawser—which was brought inboard and fastened to the mizzenmast, as you have said, after that one part of the twelve-inch

(Deposition of J. J. Lowry.)

hawser broke and you then in place of the one part of broken twelve-inch hawser made fast a five-inch steel wire in place of the parted hemp hawser?

By Mr. OLSON.—OBJECTION, on the ground that it is incorrectly stating the testimony of the witness, and that there is no testimony showing any such state of facts.

By Mr. LEWIS.—Well, I am asking him if as a matter of fact that was not so.

Q. Irrespective of what your former testimony has been?

A. (By WITNESS.) Well, I know there was some alteration made in the hawser, but I forget exactly what it was.

Q. I direct your attention to a portion of a steel wire hawser known as—"Claimant's Captain Henry's Exhibit B," and ask you what do you say is the size of this wire? A. Four and a half inch.

Q. There was no moon on the night of Wednesday, was there? A. No.

Q. This steam hoist which was placed on board, operated [516—181] alongside of the "Celtic Chief" and by means of which you worked cargo, as you testified in your direct examination, was so used in discharging cargo up to the time the ship came off, was it not? A. Yes, that is correct.

Q. And that cargo that it was discharging was taken on board of the Inter-Island boats which were out there on that evening? A. Yes.

Q. That is, the Inter-Island steamers? A. Yes.

Q. That steam winch during the time of these salvage operations got out of repair on one occasion,

(Deposition of J. J. Lowry.)

didn't it? A. Which winch?

Q. Your steam winch, the ship's steam winch?

A. Something went wrong with the feed pump but that was fixed up in about ten minutes, I guess.

Q. That is, the pipes were leaking?

A. Some packing blew out of the plunger; it was only about ten minutes to fix it up.

Q. What time was this that you are now testifying to, that the steam winch got out of condition?

A. About midday on Wednesday; I would not swear to that but I think it was Wednesday.

Q. While the "Celtic Chief" was on the reef during the whole of the time of these salvage operations, did she make a bed for herself upon the substance upon which she was resting?

A. I should say she did but I have no means of judging; I could not see that she did; she seemed to have done so and [517—182] seemed to be stuck pretty hard.

Q. These bumps which you have testified to which you noticed on board the "Celtic Chief," did they occur frequently?

A. No, not frequently; about every twenty minutes, I should say; somewhere about that.

Q. Some of them were hard enough to shake the masts and the rigging?

A. Yes, but it would not take much of a shake to do that.

Q. Well, hard enough to shake the rigging quite violently?

A. Well, it was shaken but I would not call it violently.

(Deposition of J. J. Lowry.)

Q. You could hear the lines and blocks rattling a bit, couldn't you, when the ship bumped?

A. Yes, they would rattle a little bit, but there was nothing damaged up there, so I guess she did not shake very hard.

Q. But they were shaken quite hard up there, were they not? A. No, not violently.

Q. High tide that night of Wednesday and the morning was more nearly between one and two, was it not, than twelve, as you have testified on your direct examination? A. High water?

Q. Yes, high water.

A. Well, as far as I remember, it was midnight. It might have been one o'clock; it was around about midnight, anyway.

Q. I am correct in my understanding of your direct testimony, am I not, when I say that during the evening of [518—183] Wednesday you were practically all the time on the forecastle head?

A. During the evening of Wednesday?

Q. Yes.

A. No, not in the evening. I was not on the fore-castle-head until late that night—about half-past eleven o'clock.

Q. Half-past eleven o'clock when you went on the fore-castle-head?

A. Yes, when I went on the fore-castle-head.

Q. And from about ten o'clock until half-past eleven you were asleep? A. Yes.

Q. As the "Celtic Chief" came off the reef that evening didn't you notice her approach the cruiser "Arcona"?

(Deposition of J. J. Lowry.)

A. No, I was not taking much notice of that at all; I was standing by the anchor forward.

Q. You were attending to your business forward there? A. Yes.

By Mr. MAGOON.—I know that it is not ordinarily the practice to allow two counsel to examine, but I would like to ask some questions and let Mr. Weaver finish.

By Mr. OLSON.—No OBJECTION.

By Mr. LEWIS.—No OBJECTION.

Cross-examination by Mr. MAGOON.

Q. What time did you use that you speak of, Honolulu time or other time?

A. I went by Honolulu time.

Q. When did you get that time? [519—184]

By Mr. LEWIS.—Well, I have just a short question.

Q. As to these soundings, Mr. Lowry, did you take soundings the day of Wednesday?

A. No, I don't remember taking it on Wednesday.

Q. When was it that you took these soundings?

A. I think it was Tuesday morning about eight o'clock.

Q. And you don't remember taking any more after that?

A. I did not take them myself after that but they were taken after that by the second mate.

Q. Well, these soundings that you have testified to you took yourself? A. Yes.

Q. And the second mate thereafter took some soundings? A. Yes.

(Deposition of J. J. Lowry.)

Continued Cross-examination by Mr. MAGOON.

Q. When did you get this time?

A. Well, it was our own time calculated from the sun.

Q. So that all the time you are speaking of here is Honolulu time taken by the sun? A. Yes.

Q. You set your watch by that time?

A. We had the watch set here to carry the time right along according to the position of the vessel.

Q. When did you stop discharging cargo into the Inter-Island boat?

A. Into the Inter-Island boat?

Q. Yes.

A. I cannot swear to the exact time but it was about midnight on Wednesday. [520—185]

Q. Was it a fact that you were discharging cargo at the time you went to bed?

A. Yes, they were discharging then.

Q. You are sure of that are you?

A. Well, I won't say I am sure of it; that happened about two months ago.

Q. Could you give us any estimate of about how much cargo was discharged after twelve o'clock noon on Wednesday? A. No, I could not give that.

Q. Could you tell us about how much a discharge of one hundred tons of cargo would lighten the "Celtic Chief"?

A. One hundred tons would only lighten her up about four inches.

Q. Do you have anything to remind you what time you went to bed on Wednesday night?

A. No.

(Deposition of J. J. Lowry.)

Q. Do you have anything to fix it in your memory as to the time you came out on Wednesday night, after you had been in bed?

A. No, I cannot think of anything to fix it; I know that was the time but there is no incident to impress it on my memory.

Q. You did not look at your watch as far, as you can remember? A. No.

Q. So that when you are speaking of this time you are speaking of it according to your best judgment with reference to the facts that occurred; is that right?

A. I am speaking of it as I remember the time, but not in connection with any incident or fact.

Q. Well, how can you remember the time if you did not [521—186] look at your watch or the clock?

A. I don't know; I know that was the time, I remember that; but I don't know what told me the time.

Q. Well, if you did not look at any watch or clock, how could you say now that you know that was the time?

A. I must have looked at my watch but I don't remember doing it. It is only a little incident and you don't remember that two months after that. There is such a thing as pulling your watch out and you would not remember that.

Q. Well, can you tell us the exact time that you got up?

A. I cannot give the exact time but it was about half-past eleven.

Q. Might have been twelve o'clock?

(Deposition of J. J. Lowry.)

A. No, it was not twelve o'clock.

Q. Was the vessel moving when you got up?

A. No, it was not moving when I got up.

Q. Was the ship's bell system kept going?

A. No.

Q. How long after you got up and came out was it that the ship moved off the reef?

A. About a quarter of an hour or twenty minutes.

Q. So that you are sure that the ship was off the reef before twelve o'clock—is that right?

A. No, I am not sure that she was off before twelve; it was after twelve.

Q. How long would it take to get off after it began first to move off?

A. I think about twenty minutes before she was fully afloat, from the time she first moved until she was fully afloat. [522—187]

Q. Where were you when she first moved?

A. Forward.

Q. Where? A. I was standing by the windlass.

Q. What was the windlass doing at that time?

A. Doing nothing at all.

Q. Not pulling? A. No, not our windlass.

Q. What was the capstan doing?

A. The capstan?

Q. Yes.

A. Captain Miller was heaving on that.

Q. How many men did he have heaving on the capstan?

A. Eight or ten as far as I can remember.

Q. What was the steam winch doing?

A. I don't know what it was doing. It was too far

(Deposition of J. J. Lowry.)

away for me to see.

Q. You could not tell whether they were heaving on that or not?

A. No, I do not remember what the winch was doing.

Q. Where was the captain when you came up on deck that night, after your sleep?

A. On the poop.

Q. He was on the poop? A. Yes.

Q. You are sure of that?

A. Yes, I am sure of that.

Q. When you came up you saw the captain there, did you? A. Yes.

Q. Was he with anyone?

A. There was some people there but I forget who they were. [523—188]

Q. Do you know whether any orders were given with reference to the red lights that evening?

A. Yes, there were two red lights there for a signal.

Q. When were the red lights placed there?

A. They were hanging up in the starboard mizzen rigging.

Q. Since what time?

A. I cannot say; I don't know.

Q. Were they there when you came on deck after your sleep? A. Yes.

Q. You don't know when they were put there?

A. No, I do not.

Q. Did you put those lights there that night?

A. There were there two nights and I hung them up one night, I know, but which night it was I do not know.

(Deposition of J. J. Lowry.)

Q. Did you give any orders to have them hung up either night?

A. Yes, I told the lamp trimmer to have them handy.

Q. Did you hear any orders given on Wednesday night to have the red light put up? A. No.

Q. The captain never gave you any orders?

A. It might have been Wednesday or Tuesday, I don't know, but one night I hung them up.

Q. What did you hang those lights up there for, do you know?

A. If I remember rightly two red lights was a signal to the tugs to pull hard.

Q. How did you know that?

A. I think Captain Henry made the signal.

Q. And you are sure they were put there before you went [524—189] to bed?

A. I cannot swear that; I don't know what time they were put up.

Q. What was the signal with reference to the cruiser "Arcona"?

A. That is shooting by a colored star or colored ball.

Q. Well, what were the signals?

A. As near as I can remember, one ball was the signal that she was starting to move, two that she was moving rapidly and three that she was afloat. That is as near as I can remember.

Q. Is it not a fact that one ball was to notify them to pull and two balls that she was moving and the third that she was afloat?

A. I don't swear to that; I don't know exactly what

(Deposition of J. J. Lowry.)

the signals were, but as near as I can remember one was that she was moving.

Q. Well, you did not expect to pull until high tide?

A. It was agreed that all should pull hard together at that time.

Q. And that is why you went to sleep because you did not expect high tide for several hours?

A. I did not expect it before midnight and that is why I went down. There was no use my knocking around there.

Q. When you went to sleep you went below?

A. Yes.

Q. Did you go into the cabin? A. Yes.

Q. When you entered the cabin to sleep was Captain Miller on board?

A. I think he was; I don't know. [525—190]

Q. Was he pulling then, do you know?

A. Oh, yes, he was just setting up that hawser tight.

Q. Which hawser was that?

A. His own hawser, his anchor.

Q. He had one hawser, did he?

A. There was a wire and a rope and I have heard since that there was some chain on it, but I don't know.

Q. He was superintending the pulling tight of this hawser when you went below? A. Yes.

Q. And could you tell at that time whether there was a great strain on it? A. Yes, there was.

Q. Did you see him when he was placing that anchor?

A. Yes, I saw the "James Makee," the steamer.

Q. And he placed the anchor, after consultation

(Deposition of J. J. Lowry.)

with the captain, where it was agreed to place it, didn't he?

A. As far as I know; I don't know whether there was any consultation about it at all.

Q. Don't you know that Captain Miller and Captain Henry agreed as to where the anchor should be placed?

A. Captain Miller came off first with the anchor and wanted to run it out on the port quarter and I know that the captain refused to let him put it there, but whether they agreed between themselves to run it out astern, I don't know. I only know that the captain refused to let him put it on the port quarter. And afterwards it was put dead astern, but whether that was the result of any consultation I don't know.

Q. And as soon as the anchor was placed in position the ropes began to be made taut?

A. Yes. [526—191]

Q. To the winch and to the capstan?

A. Yes, they were using both, but not both at the same time.

Q. Not both at the same time?

A. No, they never used the steam winch and the capstan at the same time.

Q. What time was it, as far as you can remember, when you saw this very great strain upon Captain Miller's hawser?

A. I think it was about eight o'clock at night.

Q. That is when he began to get his heavy pull and he kept on pulling until you went to bed? A. Yes.

Q. What was the first that you noticed of the ship being free or afloat?

(Deposition of J. J. Lowry.)

A. I noticed the lights, the channel lights. There was two in line where I was standing. I was standing at the break of the forecastle-head and there was two lights in line and as soon as she started to move they came out of line.

Q. Were you having your attention fixed on those lights all the time? A. No.

Q. So that she might have been moving a little before you looked at those lights?

A. She might have moved; yes.

Q. When you looked at the lights you noticed she had moved? A. Yes.

Q. Did you say anything?

A. There was no one there to say anything to.

Q. You just stood by?

A. I was standing by the windlass. [527—192]

Q. Then you did not feel any unusual motion, your attention was not directed to the fact that she was afloat by some unusual motion was it, by any bumping or thumping? A. No.

Q. She went off very easily when she began to go?

A. Yes. ,

Q. Before you went down to sleep how long was it that you observed the cable to the ship "Arcona"?

A. How long was it?

Q. What was the time or the last time before you went down to sleep that you observed the cable to the ship "Arcona"?

A. I think that was about nine o'clock.

Q. Was that cable taut then? A. Yes.

Q. Now, how do you explain it if the "Arcona" was to pull and they were all to pull when you had set

(Deposition of J. J. Lowry.)

up your signal, that the "Arcona" was pulling about that time, about nine o'clock?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination and on the ground that it is incompetent, irrelevant and immaterial and further on the ground that it is asking for a conclusion of the witness. (QUESTION WITHDRAWN.)

(By Mr. MAGOON.)

Q. How do you reconcile your statement that the "Arcona" was pulling about nine o'clock when you have also stated that the vessel was to pull about high tide?

By Mr. OLSON.—OBJECTION, on the ground that it is incorrectly stating the testimony of the witness, the testimony of the witness being [528—193] simply that the signals were that the "Celtic Chief" was moving, moving rapidly and off, and no testimony whatever that the German cruiser was not to pull before that time.

A. (By WITNESS.) How do I reconcile the statement?

(By Mr. MAGOON.)

Q. Yes.

A. I stated there was a big weight on the wire but I did not say she was pulling at their hardest; at twelve o'clock, the agreement was for all boats to pull all they could, at twelve o'clock, at high water, but it did not mean to say that they had not got to pull before that.

Q. Do you mean to say that the agreement was that

(Deposition of J. J. Lowry.)

they were to pull at twelve o'clock or high water—which was it?

A. High water, which was round about twelve o'clock.

Q. Well, you don't remember about that, what time high water was?

A. I cannot swear to the time of high water.

Q. It may have been two o'clock?

A. I don't think it was as late as that; it was between twelve and one as far as I remember.

Q. Did you see the captain of the cruiser "Arcona" on board at the time she came off?

A. I saw him aboard but whether it was when she came off I cannot say. I do not think he was aboard when we floated.

Q. Do you know who sent up those rockets or shots?

A. No.

Q. Did you hear anything said with reference to them?

A. Yes, I heard the first lieutenant or chief officer arrange these signals.

Q. With whom? [529—194]

A. He was telling our captain the time I heard him.

Q. What did you hear him say?

A. As far as I remember, there was to be one ball when she was moving; this was the signal he was to send to the man of war, one ball that she was moving; two that she was moving rapidly and three that she was afloat.

Q. Was not there some signal to tell them when to pull? A. Not that I remember.

Q. How vivid is your memory upon that proposi-

(Deposition of J. J. Lowry.)

tion—is it very clear or somewhat dim?

A. On the signals?

Q. Yes. A. I am pretty sure of it.

Q. Well, why do you say, "as near as you can remember"? A. Well, force of habit, I guess.

Q. What I am trying to get at is whether you are making that as a positive statement that you remember distinctly and positively or whether you are making it as an impression? A. The signals?

Q. Yes.

A. I am positive of that; one ball that she was moving, two that she was moving rapidly and three that she was afloat. The signals were to the man of war to give him a chance to get out of the way.

Q. Was there any signal at all as to when she was to begin to pull? A. Not that I know of.

Q. Didn't that strike you as peculiar that you should send up one ball when the ship was moving, rather than that one ball should be sent up when they were expected to pull? [530—195]

By Mr. OLSON.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and further that it calls for a conclusion of the witness, and on the further ground that it has no tendency to prove any of the issues of the case.

A. (By WITNESS.) It did not strike me any way; I did not take that much notice of it.

(By Mr. MAGOON.)

Q. Were not you consulting with Captain Henry as to the operations there?

A. I had very little to do with it.

Q. Is this not a fact, Mr. Lowry, that the real

(Deposition of J. J. Lowry.)

signals were to be arranged for after the officers came back from the German cruiser and that they had not been really agreed upon prior to the time that you came out, prior to the time you went to bed?

A. They must have been agreed on before I went to bed because I remember them talking about it. I remember it.

Q. Who was talking about it?

A. The chief officer of the man of war was talking to our captain at the time I heard it, and he said these were to be the signals as I have stated.

Q. And that was before you went to bed?

A. Yes, before I went to bed.

Q. What time? A. About nine o'clock, I think.

Q. Was anyone present besides yourself and the chief officer of the man of war and the captain?

A. Yes, there was three or four people, but I forget who they were; if I am not mistaken Captain Miller was there. [531—196]

Q. Was Captain Macaulay, the pilot, there?

A. Yes.

Q. And he heard this talk with reference to the signals, did he? A. He must have done; yes.

Q. He was near enough to hear? A. Yes.

Q. Now, is this not a fact, as near as you can remember, that the lines from the cruiser "Arcona" were placed and simply hauled taut and that no pulling was to be done until the signals were given, and then they were to pull hard—is not that the arrangement of it? A. You say there was to be no pulling?

Q. Well, no pulling other than to get the lines taut, on the "Arcona"?

(Deposition of J. J. Lowry.)

A. Well, there was a big weight on the wires all the time, but it was agreed that at midnight they should all pull hard together.

Q. You mean at high tide and not midnight?

A. High water. High water was about midnight, and when I say that I mean high water.

Q. Is it not a fact that there was only a strain to be kept on the lines until the time when they were to pull all together?

By Mr. OLSON.—OBJECTION, on the ground that it has been fully answered.

A. (By WITNESS.) There was a big weight kept on it all the time, on the "Arcona's" wires.

(By Mr. MAGOON.)

Q. How do you know that? [532—197]

A. I know because I tested it pretty frequently myself.

Q. What test did you make?

A. Felt it with the foot.

Q. And you felt that there was a heavier strain on the "Arcona's" wire than there was on the steamers of the Inter-Island wires or ropes?

A. Yes; there was more weight on the "Arcona's" wires than there was on the Inter-Island ropes.

Q. Could you tell us what was the object of this heavy strain on the "Arcona's" wire before the time agreed upon to pull?

A. I don't know what the object was but she was pulling all the time.

Q. As a matter of fact, nothing was to be gained by pulling until high water?

By Mr. OLSON.—OBJECTION, on the ground

(Deposition of J. J. Lowry.)

that it calls for a conclusion of the witness.

A. (By WITNESS.) There was a chance of our dragging off before high water, if there was sufficient weight put on it.

Q. Was there any change at all in the method of pulling by the "Arcona" from six o'clock in the evening until the "Celtic Chief" came off?

A. Any difference in the method of pulling?

Q. Yes.

A. I cannot swear to what method was used at all.

Q. Well, so far as you know?

A. As far as I know, she had her anchors down and was heaving on the windlass.

Q. Did you know anything about that yourself?

A. No, I cannot swear to that. [533—198]

By Mr. MAGOON.—I ask to have that part stricken out, that—"she had her anchors down and was heaving on the windlass."

Q. As far as you know, was there any difference in the method of pulling by the "Arcona" from six o'clock in the evening until the time the "Celtic Chief" came off? A. No.

Q. You don't know whether there was any difference in the strain on her wire or not, do you?

A. I know there was a big weight on the wires all the time.

Q. Now, you don't know anything about that when you were forward and her wires were aft?

A. I know there must have been a big weight on the best part of the time.

Q. Well, I simply want to know what you observed, from the time you went to bed until the ship

(Deposition of J. J. Lowry.)

came off you did not observe the wires of the "Arcona" at all. A. I could not say as to that.

Q. You say you don't know what the strain was?

A. During that time I did not.

Q. Well, that was the critical time, was it not, between the time you got up and the time the ship came off?

A. Yes, that was the time the pulling was doing the most good.

Q. So, as a matter of fact, you don't know what power it was that brought the "Celtic Chief" off the reef, do you?

A. No, I do not know which was the one that got her off; they were all pulling.

Q. Now, when you looked at the rope or the cables of the [534—199] cruiser "Arcona" last, were they sagging or were they straight?

A. They were pretty straight.

Q. Now, what do you mean by "pretty straight"?

A. I mean straight.

Q. No sag at all? A. No.

Q. Not a bit?

A. Well, there might have been a little; you could not keep a wire tight enough to be perfectly straight.

Q. Well, didn't it strike the water sometimes?

A. Oh, yes, they touched the water a little in the middle of them.

Q. That is, the strain was not even all the time, was it, as far as you observed?

A. Yes, it was pretty steady. I meant that there was a steady strain on them but they were bound to touch the water; they could not keep the wires tight

(Deposition of J. J. Lowry.)

enough to keep them out of the water all the time, because it would break the wire.

Q. When the wire was in the water you could not tell, so far as observing the level of the wire, whether it was taut or not, if it was in the water?

A. You can tell whether it was tight.

Q. How could you tell? A. Feel it.

Q. You were not feeling the wire all the time?

A. No, not all the time; I would have no time to do anything else.

Q. Well, if the wire was stretched from the stern of the "Celtic Chief" to the "Arcona" would it not be tight as far as you were concerned, on the "Celtic Chief," you could not tell? [535—200]

A. You could tell by the feel of the wire at our end.

Q. Would not a wire cable of this kind feel stiff if it was attached to the cruiser from the "Celtic Chief"?

A. You mean just hanging by its own weight?

Q. Yes. A. It would not be tight and stiff.

Q. Do you pretend that you could put this cable there where it was down on to the deck if it was attached from the cruiser to the "Celtic Chief," with your foot?

A. You can get it pretty close to the deck; you mean a wire hanging by its own weight?

Q. Yes, without any strain on it, and being attached from the "Arcona" to the stern of the "Celtic Chief," could you by your foot press that wire down there where it was attached, to the deck?

A. Yes, I believe I could.

Q. What is the distance that this wire was attached

(Deposition of J. J. Lowry.)

above the deck?

A. I think about fifteen or eighteen inches.

Q. Now, you say you believe you could put it down with your foot that fifteen or eighteen inches?

A. As long as the wire is hanging by its own weight. There is a distance of about fifteen feet between the pipe where it came through and where it was made fast around the mast.

Q. And in that space of fifteen feet you could by putting your foot on the wire, put it down to the deck?

A. As long as it was only hanging by its own weight, and there was no pulling on it and just the wire itself attached to the two vessels and hanging by itself. [536—201]

Q. You believe that? A. Yes.

Q. Did you try? A. No, I did not try.

Q. And as a matter of fact, does it not come to this, that you do not have any real definite idea as to what the strain was on the wire from the cruiser to the "Celtic Chief"?

A. I have a definite idea because it carried it away and broke the wire.

Q. And is that why you were telling us, because it broke the wire?

A. Well, I know there was a heavy strain because there was two strong-backs up and down the mast and that crushed those.

Q. And that is why you say?

A. That crushed those strong-backs.

Q. Is there any other reason why you say there was a heavy strain? A. I felt it.

(Deposition of J. J. Lowry.)

Q. In what way? A. With my foot.

Q. How did you feel it?

A. Tight; I pressed down with the foot.

Q. When were these strong-backs crushed, do you know?

A. No, I don't know when they were crushed.

Q. Now, as a matter of fact, a steady pull would not crush the strong-backs, would it?

A. Yes, a steady pull would crush them.

Q. Would it be any more likely to be crushed by a sudden jerk? [537—202]

A. Yes, more likely to crush them with a jerk, but it could be done with a steady pull too.

Q. So you don't have any idea from the condition of the strong-backs and the dent in the mast as to what time the heaviest strain was put on the cable of the cruiser "Arcona," do you? A. No, I do not.

Q. Did you observe the cruiser's lines after the "Celtic Chief" was afloat and she was being towed?

A. No, I could not do that because I was forward.

Q. How do you measure a steel rope, a wire cable?

A. The circumference of it.

Q. Not the diameter? A. No.

Q. Is that the English rule?

A. I think it is all over the world.

Q. How near did the "Celtic Chief" go to the stern of the cruiser "Arcona" after the "Celtic Chief" was floated?

A. Well, I did not pay much attention to that. I was away the other end of the ship.

Q. Could you give us any approximate idea?

A. No, I could not tell you when she came off. As

(Deposition of J. J. Lowry.)

far as I remember, the "Arcona" was dead astern of us, and I was at the forward end of the ship and could not see the distance between the two ships.

Q. Could you tell whether or not the "Celtic Chief" came nearer to the "Arcona" as she was being floated off or whether they retained their same relative positions?

A. I cannot say anything about that at all. I was forward at the other end of the ship. [538—203]

Q. Did you know when the lines of the Inter-Island boats were cast off?

A. I don't know the exact time.

Q. Did you know of their being cast off?

A. I knew they were being cast off.

Q. Could you tell at that time where the "Celtic Chief" was with reference to the "Arcona," whether she was nearer than she was when she was on the reef, or not?

A. She was nearer than she had been to her.

Q. She was nearer? A. Yes.

Q. You are sure of that? A. Yes.

Q. Where was she with reference to Captain Miller's anchor, the "Celtic Chief"?

A. I don't know.

Q. You don't know whether she had gone past the anchor or not? A. No, I don't know.

Q. Can you tell us, if it is a fact, how far the "Celtic Chief" went on the reef, further on the reef, after she struck first?

A. I did not notice any difference in the position, whether she went further up or not.

Q. Would it not be a natural tendency of the

(Deposition of J. J. Lowry.)

“Celtic Chief” to go further on the reef as she was lying there?

A. Well, it is expected to go further on; yes.

Q. And, as a matter of fact, when you were lighter-
ing the cargo which was relieving the vessel would not
she go further on? [539—204]

A. You would expect her to go further on but I
cannot say that I noticed her go further on.

Q. She may have done, gone further on without
you noticing it? A. Yes, she could.

Q. Was there any way of measuring the exact
distance between the point where she struck and the
point where she lay when she was taken off the reef?

A. No, I do not think there is any way of measur-
ing it, exactly.

Q. If she had gone one hundred feet further on
would there have been any appreciable difference in
your observations?

A. Yes, one hundred feet would have made a dif-
ference.

Q. Would fifty feet have made a difference?

A. You could have noticed fifty feet too, I think.

Q. Would twenty-five feet have made a difference
which you could have noticed?

A. Well, I would not notice much difference then.

Q. Then, it is a matter of fact, is it not, safe to say
that she might have gone fifty feet on the reef with-
out there being much difference noticed in her posi-
tion?

A. I think you would have noticed fifty feet.

Q. You think you would? A. Yes.

Q. What do you mean?

(Deposition of J. J. Lowry.)

A. I guess I would notice it by the bearings I had.

Q. You would not want to swear to that positively as to the exact distance? A. No.

Q. She might have gone twenty-five feet further on or [540—205] fifty feet and you would not be able to notice it?

A. I would notice fifty feet but I do not suppose twenty-five feet would make much difference.

Q. And you would not want to say that as you were lightering the cargo the "Celtic Chief" did not go further on the reef?

A. I would not say that she did not go, but I cannot swear as to whether she went there or not.

Q. Is it not a fact that so far as heaving on a ship is concerned, in the position of the "Celtic Chief" the only wise thing to do is to put a heavy anchor astern to hold her in position while the cargo is being lightered? A. Yes.

Q. And that was just what Captain Miller did?

A. Yes.

Q. And that would enable the ship to float if the strain was strong enough and enough cargo was taken out? A. Yes.

Q. On the other hand, I will put it to you, the uneven strain which pulling by steamers like the "Arcona" and the Inter-Island boats would not prevent the ship from going further on the reef, because it would not be steady, in the nature of things?

A. Not unless the ship, the steamers, had their anchors down, and then it would be practically the same thing as Captain Miller's anchor.

Q. But the pulling by vessels without being an-

(Deposition of J. J. Lowry.)

chored in front, being unsteady, would not prevent a ship from going further on the reef when it was being lightered unless they could pull it off? [541—206]

A. Well, I don't think the steamers would keep her from going further on if she wanted to go on.

Q. And as you would lighten up the "Celtic Chief" the slacking up of the cables would allow her to go further on? A. Yes.

Q. Did you see them put the anchors of the cruiser down?

A. I saw her let go one, just as she was getting into position, but I do not know about the other one.

(By Mr. WEAVER.)

Q. You have spoken of the cruiser pulling the "Celtic Chief" off with her two lines that night, and you were forward near the capstan, I believe, at that time, standing by the anchors?

By Mr. OLSON.—OBJECTION to the question, on the ground that it incorrectly states the testimony of the witness, the witness never testifying that the cruiser pulled the "Celtic Chief" off.

(QUESTION WITHDRAWN.)

(By Mr. WEAVER.)

Q. You were standing forward there that night just before the "Celtic Chief" left the reef?

A. Yes.

Q. From that position could you see whether or not the cruiser was dead astern?

A. You could see that she was astern.

Q. After she had begun to move off was there any

(Deposition of J. J. Lowry.)

change of position of the cruiser with regard to the "Celtic Chief"?

A. She came out on the starboard quarter.

Q. You could see that? [542—207] A. Yes.

Q. She did not maintain her position dead astern?

A. No.

Q. Could you at that time see the cruiser distinctly? A. Yes.

Q. She had a search-light out? A. Yes.

Q. You could see her plainly? A. Yes.

Q. From your observation of her could not you say that she was closer to the ship than she had been before you began to move off?

A. Yes, she was a little closer.

Q. How much? A. Just a few yards difference.

Q. You could see these lines running from the "Celtic Chief" to the cruiser at that time?

A. At the time we floated I could not because I was forward.

Q. Well, from forward could not you see the lines running from the cruiser, to the "Celtic Chief," even though you were forward?

A. Perhaps if I had looked for them but I was not looking for them.

Q. And she was off to the port quarter and a little closer? A. No, the starboard quarter.

Q. And a little closer? A. Yes.

Q. Did you see these lights fired, the shots fired as signals? [543—208] A. Yes.

Q. How long was that after you came out of the cabin? A. About twenty minutes.

Q. How long after you saw these shots fired was it

(Deposition of J. J. Lowry.)

before your ship was afloat?

A. About five or ten minutes.

Q. Do you speak of this then, the time between the first shot as a signal fired and the time you were afloat was ten minutes? A. About that.

Q. Was it ten minutes from the time the first signal was fired until the time when the ship was afloat and no longer in contact with the reef?

A. Yes, about ten minutes.

Q. How long between the signals was it?

A. I could not say.

Q. Was there any more than one signal?

A. Yes, but how many I don't know.

Q. Did they happen all at once or not?

A. They seemed to be in pretty rapid succession. I just saw the balls fired and that is all; I did not count them or take any particular notice of them.

Q. Then you only saw one signal, there was only one signal by the balls at one time?

A. There seemed to be four or five balls of fire one after the other.

Q. Well, apparently it was one signal and not several signals?

A. Well, it looked like one signal. It might have been several signals but I don't know. [544—209]

Recross-examination by Mr. LEWIS.

Q. In response to a question by Mr. Magoon you said that the "Celtic Chief" came off easy—directing your attention to that particular part of your testimony on cross-examination by Mr. Magoon, I will ask you whether or not her coming off was not by a gradual movement, that she did not come off

(Deposition of J. J. Lowry.)

with a rush after she first started to move?

A. No, she did not come off with a rush; she came off quickly but not with a rush.

Q. She came off evenly? A. Yes, smoothly.

Q. You said also in response to a question by Mr. Magoon that the steam winch and the hand capstan were not being used at the same time on Captain Miller's lines? A. No.

Q. Just explain why that is not the case.

A. Well, at one time we were using the steam winch. We were using it to get the cruiser's lines aboard, but during that time Captain Miller had the use of the fore-castle-head capstan, and during the working of the cargo he could only use it at short intervals. He could not use it all the time, and when he could not use the winch he would go to the fore-castle-head capstan.

Q. What were the colors of these lights which were shot off by the German officers on board the "Celtic Chief"? A. The colors?

Q. Yes.

A. Red and green, I think. Some were red and some were green.

Q. Any white?

A. I do not remember any white ones. [545—210]

Q. Your memory is not quite plain on that?

A. No.

Q. There may have been some white ones?

A. There may have been, yes.

Redirect Examination by Mr. OLSON.

Q. You have spoken of this indentation in the

(Deposition of J. J. Lowry.)

steel mizzen mast of the "Celtic Chief" that was made by the line of the "Mauna Kea"—do you know how that indentation was made?

A. The line surging around the mast.

Q. Surging around the mast? A. Yes.

Q. When? A. Do you mean what time?

Q. When was that indentation made?

A. About eleven o'clock on Monday morning.

Q. What caused the indentation and the surging of the "Mauna Kea's" line?

A. The rope stretched for one thing; the rope streached and the hitches that were on the end, and the lashing slipped along the rope.

Q. Was that when the "Mauna Kea's" hawser parted? A. Yes, it parted then.

Q. Do you know whether or not the "Mauna Kea's" line parting was due to a jerk or a steady pull? A. I do not know.

Q. Did the line surge round the mizzenmast?

A. Yes.

Q. And that is what caused the indentation?

A. Yes. [546—211]

Q. What time was it that you came up from your sleep on Wednesday night?

A. About half-past eleven.

Q. You are sure it was very near to half-past eleven o'clock? A. Yes.

Q. Where did you go when you came up from your sleep? A. Went forward.

Q. Doing what? A. Standing by the anchor.

Q. About how much later was it that you first noticed the firing of these rockets or stars by the

(Deposition of J. J. Lowry.)

German cruiser's men from the "Celtic Chief"?

A. About half an hour after I went forward.

Q. Somewhere in the neighborhood of twelve o'clock? A. Somewhere about that.

Q. I think you testified that the vessel came off about twenty minutes later, about twelve-twenty; is that correct? A. Yes.

Q. Do you know whether or not there were any stars or rockets fired off by these German cruiser men at any other time than the time which you have testified?

A. No, I do not remember any other time.

Q. To what were you giving your attention during the period from the time you went forward until the vessel came off?

A. I was watching some channel lights.

Q. What was your duty at that time?

A. Standing by to let go the anchor when she came off.

Q. Then I take it that it was only occasionally that [547—212] you were observing what was going on astern? A. Yes.

Q. State whether or not some of these rockets or stars might have been fired off at other times when you were not observing.

A. They could have been; I was not watching all the time.

Q. Are you sure there was more than three lights or stars fired off at the time you spoke of?

A. Yes, more than three.

Q. You are sure of that? A. Yes, sure.

Q. Well, then, if the vessel came off about twenty

(Deposition of J. J. Lowry.)

minutes after she first began to move, about twelve o'clock, you were incorrect, were you not, in stating it was only ten minutes between the time she came off and the time of the firing of those rockets?

A. About ten minutes or a quarter of an hour.

Q. That was merely approximate then?

A. Yes.

Q. Might it have been later than twelve o'clock that these several stars were fired off?

A. I think it was after twelve o'clock.

Q. Neared to twelve-thirty? (WITHDRAWN.)

Q. How much later than twelve o'clock would you say?

A. I think it would be about ten minutes past twelve.

Q. State whether or not prior to that time you observed any stars or rockets fired off?

A. No, I never saw any.

Q. Where were you at the time the German cruiser broke [548—213] the "Celtic Chief" wire hawser which she was using in pulling on the "Celtic Chief"?

By Mr. LEWIS.—OBJECTION, on the ground that it is improper redirect examination.

By Mr. MAGOON.—We OBJECT to that too.

By Mr. OLSON.—The cross-examination brought out that it was a jerk that broke the cruiser's lines, and that is what I am directing my question to. (OBJECTION of both counsel withdrawn.)

Q. Where were you at the time the cruiser broke the "Celtic Chief's" wire which she was using?

A. Standing aft on the port side, on the main deck.

(Deposition of J. J. Lowry.)

Q. How was the cruiser pulling at that time on the hawser, if you know?

A. Do you mean in what direction?

Q. As to whether or not there was a steady strain or a jerk? A. There was a steady strain.

Q. At the time the hawser parted?

A. Yes. There was a steady strain on it.

Q. You testified on cross-examination by Mr. Magoon that the best method of getting a vessel off of a reef is by an anchor astern? A. Yes.

Q. Is that only possible by means of an anchor with a line from the anchor to the vessel, as Captain Miller's anchor was used?

A. Well, the same principle applies to a ship that has her both anchors down and heaving on them; it is the same thing. [549—214]

[Endorsed]: No. 116. Libellee's Deposition of J. J. Lowry. Filed Dec. 18, 1911. [550]

(At 12:05 a recess was taken until 1:30 P. M.).

AFTERNOON SESSION (1:30 P. M.)

[Deposition of J. L. Brisco, for Libelee.]

J. L. BRISCO, called in behalf of libelee, sworn.
(By Mr. OLSON.)

Q. What is your name? A. J. L. Brisco.

Q. Your first name is Joseph? A. Yes.

Q. What is your occupation?

A. Second officer.

Q. Of what? A. The "Celtic Chief."

Q. What nationality is the "Celtic Chief"?

A. English.

Q. Where is she at the present time?

A. At the Hackfeld wharf in Honolulu.

(Deposition of J. L. Brisco.)

Q. When did she come to Honolulu?

A. December the 5th.

Q. 1909? A. Yes, 1909.

Q. She is the vessel, is she not, that went ashore early on the morning of December the 6th outside of the harbor entrance to Honolulu? A. Yes.

Q. Were you aboard the "Celtic Chief" at that time? A. Yes.

Q. How long have you been second officer of the "Celtic Chief"? A. Seven months.

Q. How long have you been to sea?

A. Ten years. [551—215]

Q. How long have you held second mate's papers?

A. Two years and four months.

Q. Do you remember the going ashore of the "Celtic Chief"? A. Yes.

Q. About what time was it?

A. Three-thirty of December the 6th A. M.

Q. Don't you mean two-thirty on December the 6th? It might have been two-thirty?

A. Two-thirty?

Q. Your best recollection is three-thirty?

A. Yes.

Q. On December the 6th? A. Yes.

Q. Do you remember, do you not, the tug "Intrepid"? A. Yes.

Q. Did she have anything to do with the "Celtic Chief" while she was ashore? A. Yes.

Q. When did she come out?

A. She came out at eight o'clock on the morning of December the 6th.

Q. Were you on watch at the time the "Intrepid"

(Deposition of J. L. Brisco.)

came out? A. Yes.

Q. Did you hear any conversation between the tug and Captain Henry? A. Yes.

Q. What was that conversation?

A. The captain asked him how much he wanted and he said twenty thousand dollars. [552—216]

Q. What did Captain Henry say?

A. He said, "No."

Q. Then what was said?

A. He came down to ten thousand dollars.

Q. What did Captain Henry say to that?

A. He said, "No."

Q. What was further said?

A. Captain Henry said, "We will settle it when we get inside," and he said all right.

Q. State whether or not the "Intrepid" put a line aboard the "Celtic Chief." A. Yes.

Q. How long was that line aboard the "Celtic Chief"?

A. From Monday morning at eight o'clock until twelve o'clock on Wednesday.

Q. That would be Wednesday, December the 8th?

A. Yes, December the 8th.

Q. Then what happened?

A. We started to go ahead.

Q. No, not on the 6th, I mean on Wednesday, what happened on Wednesday, at noon?

A. The rope was cut.

Q. Who cut it? A. I did.

Q. Under whose direction?

A. The captain's.

Q. Captain Henry? A. Yes.

(Deposition of J. L. Brisco.)

Q. Do you know why that line was cut?

A. Because the tug boat would not ease up and let us let it go. [553—217]

Q. Why did the "Celtic Chief" wish the tug to ease up and let her go?

A. So that we could get the cruiser "Arcona" in that position.

By Mr. LEWIS.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and hearsay, unless this witness is testifying to his own knowledge.

(By Mr. OLSON.)

Q. How do you know the reason for wanting the tug "Intrepid" to ease up so as to let her loose or because it was desired to put the cruiser in her position?

A. Because I could hear him singing out through the megaphone to let go, that he wanted the cruiser to come in there.

Q. Whom did you hear sing out through the megaphone? A. Captain Henry and the pilot.

Q. Pilot who? A. Pilot Macaulay.

Q. What did the "Intrepid" do upon being spoken to through the megaphone?

A. Didn't do anything.

Q. Then what was done?

A. The captain sent a letter over there.

Q. Then what?

A. Then I got orders to cut it.

Q. What happened to the hawser of the "Intrepid" when you cut it loose?

A. It started to go out.

(Deposition of J. L. Brisco.)

Q. Suddenly or slowly?

A. Slowly. [554—218]

Q. What became of that hawser?

A. It went in the water.

Q. What caused it to go in the water?

A. I suppose the tugboat going ahead.

Q. I want to know if anything further was done by you or anyone else on the "Celtic Chief" after cutting that line, with that line?

A. It was caught hold of and thrown out through the chock.

Q. Who caught it and threw it out through the chock? A. A couple of men.

Q. On board what?

A. On board the "Celtic Chief."

Q. State whether or not there was any strain on that line at the time you cut it.

A. There was a little but not much.

Q. State whether or not you observed that line at any other time prior to the cutting of the line.

A. I did not notice it.

Q. Didn't you notice it any time from the time it was put aboard until it was cut loose?

A. I did not take much notice of it.

Q. Did you notice it at all?

A. No, I did not.

Q. Do you know whether or not there was any strain on it?

By Mr. LEWIS.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and hearsay, the witness already testifying that he did not notice it.

(Deposition of J. L. Brisco.)

By Mr. OLSON.—I am asking the witness whether or not he noticed there [555—219] was any strain on that hawser from the time it was put aboard on Monday morning until it was cut loose on Wednesday.

By Mr. LEWIS.—I renew my OBJECTION, on the ground stated.

A. (By WITNESS.) I did not take much notice.

(By Mr. OLSON.)

Q. So you don't know?

A. No, I don't know.

Q. Were you off the "Celtic Chief" at any time during the time she was ashore? A. No.

Q. Where were you on the evening of Wednesday—no, at noon on Wednesday, December the 8th?

A. I was on the poop.

Q. Do you know the German cruiser "Arcona"?

A. Yes.

Q. Where was she at that time?

A. She had just come out to us and was astern of us.

Q. What did the cruiser do after you had cut loose the line of the "Intrepid"?

A. She run a rope from him to us.

Q. And then what did they do?

A. We made the rope fast and he took it to and he was heaving his ship in position.

Q. And then what did they do?

A. That rope carried away so they ran a small wire and they hove the ship in position with the wire.

Q. What did they do then?

(Deposition of J. L. Brisco.)

A. Then we sent our wire over to her.

Q. I will hand you this piece of wire which is marked [556—220] "Celtic Chief," "Claimant's Exhibit Captain Henry, B," and ask you if you recognize it? A. Yes.

Q. What is it?

A. A piece of our wire that went to the German cruiser.

Q. What was done with the "Celtic Chief's" wire hawser that was taken by the cruiser?

A. They took it aboard and we made it fast around the mizzenmast.

Q. About what time was that made fast?

A. About one o'clock.

Q. Then what did the cruiser do?

A. The cruiser hove it in and got a little strain on it.

Q. How long did that continue?

A. I did not see much after that as we were busy around the main deck.

Q. Do you know whether or not the cruiser continued to pull on that hawser?

A. By the strain that was on it it must have done.

Q. Did anything happen in the course of the afternoon to the line? A. It carried away.

Q. About what time was that?

A. About half-past two.

Q. Did you see the line just prior to its being carried away? A. Yes.

Q. State whether or not there was any strain on it.

A. There was a good strain on it. [557—221]

Q. How could you tell that?

(Deposition of J. L. Brisco.)

A. It was right across the main deck and you could jump on it.

Q. Did you see the line extending from the "Celtic Chief" out to the steamer?

A. No, I did not see the line.

Q. What happened after the carrying away of that line?

A. Took it aboard the German cruiser to splice it.

Q. Then what did they do?

A. Then they gave it back again.

Q. When was that?

A. That would be about half-past three.

Q. Then what else did they do?

A. Then they gave us their wire.

Q. What kind of a wire was that?

A. It was a wire similar to that one only larger.

Q. You think it was larger? A. Yes, it was.

Q. Whose line was that? A. The German's.

Q. Then what did they do?

A. Then they started to get a steady strain on both the lines.

Q. How soon did they get a steady strain on both the lines?

A. I think it was six o'clock when they had a steady strain on both the lines.

Q. Did you notice those lines at that time?

A. Yes.

Q. State whether or not there was any strain on them. [558—222]

A. Yes, there was a strain on them.

Q. How much of a strain?

A. There was a good strain on them.

(Deposition of J. L. Brisco.)

Q. How could you tell?

A. I could see them.

Q. How did they look?

A. They looked tight.

Q. What do you mean by being tight, straight out?

A. Yes, straight out.

By Mr. LEWIS.—OBJECTION, on the ground that it is leading. (QUESTION AND ANSWER WITHDRAWN.)

(By Mr. OLSON.)

Q. What do you mean by saying that they looked tight?

A. They were stretched out, straight out.

Q. How long did they continue in that position?

A. The last I saw of them they were like that; it started to get dark and there was still a good strain on them.

Q. Where were you about twelve o'clock?

A. I was on the poop.

Q. At twelve o'clock on Wednesday night, December the 8th, where were you? A. On the poop.

Q. What, if anything, happened at that time?

A. What is that?

Q. What if anything, happened about that time?

A. That is just about twelve o'clock and the ship just moved a little.

Q. The "Celtic Chief"?

A. Yes, the "Celtic Chief." [559—223]

Q. State whether or not you had observed any motion of the "Celtic Chief" prior to that time.

A. No, I did not notice anything.

Q. Which way was she moving?

(Deposition of J. L. Brisco.)

A. Moving astern.

Q. That is seaward? A. Yes, seaward.

Q. When did she come off the reef?

A. Twenty minutes past twelve.

Q. Did you observe the lines from the "Celtic Chief" to the German cruiser during that period from twelve until she came off?

A. Yes.

Q. State what was the condition of those wires with reference to the question of whether or not they had a strain on them.

A. They had a good strain on them.

Q. Constantly? A. Yes.

Q. What happened after she came off?

A. We cut the other steamers adrift and let go that stern anchor.

Q. Do you remember seeing any of the German cruiser men aboard the "Celtic Chief" that night?

A. Yes.

Q. About what time?

A. I noticed an officer and one man on the poop.

Q. When?

A. He was there at half-past eleven.

Q. How long did they stay there?

A. Stayed until that ship came off. [560—224]

Q. What were they doing there?

A. Well, the officer was taking bearings and the man was just standing by the officer.

Q. What happened, was anything done?

A. With the pistol and stars.

Q. What was done with that pistol?

A. As soon as the ship moved the first time he

(Deposition of J. L. Brisco.)

threw one star.

Q. Shot the pistol off?

A. Yes, and one star.

Q. About what time was that?

A. That would be about five minutes to twelve.

Q. And then what was done with the pistol?

A. Then after that they were watching the bearings and she was moving and they fired two.

Q. About how much later?

A. About ten minute later.

Q. And then what was done with the pistol?

A. Then they saw the ship was off and there was three fired.

Q. At the time she came off?

A. At the time she was floating.

Q. Do you know what those signals meant?

A. Yes.

Q. How do you know?

A. Because I had heard it.

Q. Heard whom?

A. Heard the officer of the cruiser telling the pilot.

Q. What did he tell him?

A. One, she is moving, two, she is coming slowly, and three, she is afloat. [561—225]

Q. Who was on the poop deck at the time this conversation took place, as far as you remember?

A. The captain was there and the pilot; the German officer, myself and that is all I can remember.

Q. What was the color of those stars?

A. Green.

Q. All of them? A. Yes, all of them.

Q. Did you observe the lines running from Cap-

(Deposition of J. L. Brisco.)

tain Miller's stern anchor to the "Celtic Chief," during that period from twelve o'clock until she came off? A. Yes.

Q. Was there any strain on it?

A. There was a good strain on it just at five minutes to twelve.

Q. How about it after the ship began to move?

A. As soon as the ship started to move the strain went and they hove in on it.

Q. What about the German cruiser's lines in the same respect? A. They had a good strain on.

Q. What would happen to them when she moved?

A. Slacked up a little and they tightened up again.

Q. And that went on how long?

A. That was going on until she came right off.

Q. How was the weather during the time that the "Celtic Chief" was on the reef?

A. It was fine weather with a little southerly swell.

Q. A southerly swell in the sea?

A. Yes.

Q. State whether or not there was any danger or risk [562—226] to any of the vessels that were pulling on the "Celtic Chief" during the salvage operations. A. No, I should not think so.

Q. State whether or not there was any danger to any of the men engaged on those vessels. A. No.

Q. Do you remember any lightering done by the Miller Salvage Company's lighters or boats?

A. Yes.

By Mr. MAGOON.—Is not this all cumulative?

By Mr. OLSON.—Well, I am not going into the question of lightering.

(Deposition of J. L. Brisco.)

Q. State whether or not there was any danger or risk to the boats or line of the Miller Salvage Company in the course of the lightering operations.

A. No.

Q. To any of the men employed in those lightering operations? A. No.

Q. State whether or not you know whether any lightering was done by the Inter-Island Steam Navigation Company's boats. A. Yes.

Q. Any danger to those boats? A. No.

Q. Any danger to the men engaged in those boats?

A. No.

Q. Was there any bumping of the "Celtic Chief" during the time she was on the reef? A. Yes.

[563—227]

Q. Hard or easy? A. Pretty hard.

Q. When? A. On Monday and Tuesday.

Q. How often would those bumps come?

A. About five or six times in a day.

Q. That you remember?

A. Yes, that I remember.

Q. Did you take any soundings? A. Yes.

Q. When?

A. Half-past eleven on Wednesday.

Q. Where? A. All round the ship.

Q. What were your results? What did they show? A. Three and a quarter fathoms.

Q. Where? A. All round.

Cross-examination by Mr. LEWIS.

Q. This dickering that took place between the "Intrepid's" captain and Captain Henry just at the time the "Intrepid" took hold, that did not last more than

(Deposition of J. L. Brisco.)

five or ten minutes, did it?

A. When she took hold?

Q. Yes. A. That is all.

Q. So that after the "Intrepid" hailed you and until she got her line aboard the amount of time consumed was about five or ten minutes?

A. That is about it. [564—228]

Q. Did you see this wire, Captain Henry's Exhibit "B," break? A. I did not see it break.

Q. You did not see it break? A. No.

Q. How do you know that it was a strain that broke the wire?

By Mr. OLSON.—OBJECTION, on the ground that it is incorrectly stating the testimony of the witness, the witness not having said that it was a strain that broke the wire.

A. (By WITNESS.) I should have thought it was the strain by the strain that was on it just before it carried away.

(By Mr. LEWIS.)

Q. Then it is a mere conjecture or guess on your part? A. No.

Q. What is that? A. No.

Q. You did not see the wire break?

A. No, I did not see the wire break.

Q. Then how do you know that it was the strain that broke the wire? Is it not a guess or presumption on your part?

A. Well, I should have thought it was the strain that broke the wire by the strain that was on it.

Q. Yes, but if you will mind what I have in mind is this, you did not see the wire when it broke?

(Deposition of J. L. Brisco.)

A. No, I did not.

Q. Then you don't know whether there was a strain on the wire at that time or not, do you?

A. Yes, there was a strain on it. [565—229]

Q. You say that about six P. M. the cruiser "Arcona" was in position with a strain on her lines attached to the "Celtic Chief," where were you at that time that you noticed that? A. On the poop.

Q. How long did you remain on the poop after six P. M.? A. About five minutes.

Q. Then where did you go? A. To get my tea.

Q. How long were you at tea?

A. About half an hour.

Q. And then where did you go after tea?

A. Knocked around the deck.

Q. Do you mean by that the main or poop deck?

A. Main deck and around the poop.

Q. Where were you most of the time—on the poop or on the main deck? A. On the main deck.

Q. Whereabouts on the main deck?

A. I was walking around watching them discharge. Watching Captain Miller's work there.

Q. Who was discharging at that time?

A. The Inter-Island.

Q. From what sides of the vessel were they discharging at that time, both sides?

A. On the port side aft and the starboard side, main hatch.

Q. How long did that continue that evening—it continued up until about the time the ship came off, didn't it?

A. Yes, it would be about half-past eleven or a

(Deposition of J. L. Brisco.)

quarter to twelve. [566—230]

Q. There was a donkey-hoist on a barge on the port side of the "Celtic Chief" that evening, was there not? A. Yes.

Q. Which hatch did you work with that donkey barge? A. The main hatch.

Q. How did you work that hatch?

A. With the port barrel of our donkey.

Q. Where did you say you were at twelve o'clock on that evening of Wednesday? A. On the poop.

Q. And after twelve o'clock how long did you continue to remain on the poop?

A. Until about half-past one.

Q. Continuously? A. Yes, all the time.

Q. When the "Celtic Chief" was on the reef and before she came off how was the stern of the boat headed with reference to the cruiser "Arcona"?

Br. Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

(By Mr. LEWIS.)

Q. How was the stern of the "Celtic Chief" pointed as she lay on the reef, with reference to the "Arcona"?

A. Pointing straight to the "Arcona."

Q. As she was floated and when she was just getting clear of the reef how was the stern then bearing, with reference to the "Arcona"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination. [567—231]

(By Mr. LEWIS.)

Q. In other words, when she came off, when the "Celtic Chief" came off didn't she begin to bear

(Deposition of J. L. Brisco.)

towards your own starboard side, of the "Celtic Chief"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

A. (By WITNESS.) On the starboard side the "Arcona" was.

(By Mr. LEWIS.)

Q. That is the starboard side of your own boat?

A. Yes.

Q. It commenced to veer towards the starboard side of your own ship? A. Yes.

Q. Just as the "Celtic Chief" left the reef, just after she was floated, how close did the stern of the "Celtic Chief" approach the stern of the "Arcona"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

A. (By WITNESS.) I should say about two ship's-lengths away.

(By Mr. LEWIS.)

Q. You mean by that your own ship, that is, two ship-lengths of the "Celtic Chief"? A. Yes.

Q. You stated in your direct examination that you took soundings at eleven-thirty on Wednesday and found three and a quarter fathoms around the entire ship? A. Yes. [568—232]

Q. These soundings were taken by you personally?

A. By me; yes.

Q. With a lead, I presume?

A. Yes, with the hand lead.

Q. In the customary manner? A. Yes.

Q. Now, did you take any soundings after half-past eleven on Wednesday? A. No.

(Deposition of J. L. Brisco.)

Q. I understand that is A. M. on Wednesday?

A. Yes, A. M.

Q. You stated that you were about the deck of the "Celtic Chief" on the evening of Wednesday and I ask you if while you were on deck there did you at any time notice any red lights put up in the rigging?

A. Yes.

Q. About what time were they put up?

A. One was put up at sunset and there was another one put up between half-past ten and eleven o'clock.

Q. The one which was put up in the rigging between half-past ten and eleven o'clock, how was that placed with reference to the other red light?

A. About six feet below it.

Q. And how with reference to a perpendicular position, immediately underneath it?

A. Yes, right underneath it.

Q. And this as you say was between ten and eleven o'clock on Wednesday evening? A. Yes.

Q. Did you see that done personally? [569—233]

A. Yes.

Q. Where were you standing when that was done?

A. I did it.

Q. How long did these lights remain up there?

A. They were up there until we dropped anchor.

Q. Where did you drop anchor?

A. Just by the bell buoy.

Q. That was after the "Arcona" had towed you out to sea and the hawser had been transferred to the "Likelike" and she brought you back to the bell buoy? A. Yes.

(Deposition of J. L. Brisco.)

Q. That is correct, is it? A. Yes.

Cross-examination by Mr. MAGOON.

Q. Did you see the captain come up out of the cabin just before the boat was floated?

A. I was with the captain on the poop just before she was floated.

Q. Did you see where the captain was, say, half an hour before she was floated?

A. Yes, he was alongside the chartroom.

Q. Down in the cabin? A. No, on deck.

Q. How long had he been on the poop or on deck before the boat was floated?

A. He was on and off all the night.

Q. You did not miss him at all from the deck that night?

A. No, I did not miss him; he used to go down and come up.

Q. Well, was he down in the cabin within an hour of the [570—234] time that the boat was floated?

A. He might have been down once.

Q. Could you say how long he remained down?

A. No, I cannot say how long he remained down.

Q. Was anyone with him when he was down in the cabin? A. I don't know that.

Q. You did not go in the cabin to see? A. No.

Q. But you are perfectly sure that the captain was on deck when the ship was floated? A. Yes.

Q. And he had been some little time there before she began to move? A. Yes.

Q. Did you hear the captain give any orders with reference to the rockets?

A. No, I did not hear the captain give any orders.

(Deposition of J. L. Brisco.)

Q. Did you hear anyone give orders?

A. The German officer.

Q. What did he say?

A. He told the man to fire; he spoke in German and as far as I could understand he told him to fire.

Q. Do you understand German? A. No.

Q. When you said he told the man to fire you are guessing at it?

A. Yes, because the man went and fired.

Q. You don't know whether he told him to fire one or half a dozen, do you? A. No.

Q. As a matter of fact, what is the length of the space [571—235] of time between the firing of the first rocket and the next firing?

A. About ten minutes.

Q. What makes you think it was about ten minutes? A. Well, I guess ten minutes.

Q. Two rockets were fired? A. Yes.

Q. After that how long was it before the next rocket was fired? A. About five minutes.

Q. Did you notice any unusual motion before the ship, before you observed that the ship was moving?

A. No.

Q. No pounding, no heavy bumping?

A. On Monday and Tuesday there was heavy bumping.

Q. No, just prior to coming off? A. No.

Q. What was the first thing that directed your attention to the fact that the ship was coming off?

A. By the bearings.

Q. How far had she come off, do you think, when you first observed the bearings?

(Deposition of J. L. Brisco.)

A. She could not have come far; she just moved and that was all.

Q. You would not want to say how far she was?

A. No, I cannot say how far.

Q. You could not give us the distance between ten and a hundred feet? A. I would not like to say.

Q. How far do you think the ship had been moved before the first signal was given? [572—236]

A. I could not say that.

Q. What time do you think it was when you first observed that the ship was moving?

A. Twelve o'clock.

Q. Could it have been later than twelve?

A. No, I do not think it was later.

Q. What makes you say it was twelve o'clock?

A. Well, about half-past eleven, it would be half-past eleven when I went and got two of the boys.

Q. What boys, Captain Miller's boys?

A. No, the boys, the apprentice boys.

Q. What did you do with them?

A. They were having a sleep and I went and called them.

Q. How do you know it was half-past eleven then?

A. I saw the watch.

Q. Did you have a watch of your own?

A. I have one, but I saw one of the boy's watches.

Q. Which boy's? A. Smith is his name.

Q. Did you ask him to show it you?

A. No, I saw his watch hanging up in the half-deck.

Q. You looked at it? A. Yes.

Q. What for? A. To look at the time.

(Deposition of J. L. Brisco.)

Q. Any reason to look at it—only a matter of curiosity?

A. I wanted to know the time and I had a look at the watch.

Q. And it was just half-past eleven?

A. Yes. [573—237]

Q. And then you went and called the boys?

A. Yes.

Q. Then where did you go? A. Aft.

Q. With the captain? A. Yes.

Q. You are sure he was there then? A. Yes.

Q. Was the captain on the poop when you went to call the boys? A. Yes.

Q. How long had the captain been on the poop, standing there when you went to call the boys—about how many minutes?

A. He was standing there five or ten minutes talking to me and I went down to the boys.

Q. Immediately before he was talking to you what was he doing there? A. Walking around.

Q. Walking there on the poop? A. Yes.

Q. Could you say he was there on the poop without going any other place about half an hour prior to your going to call the boys?

A. I cannot say that.

Q. Well, I want the best of your recollection.

A. Yes, I guess he would be.

Q. So then the captain must have been on the poop from about eleven o'clock, according to the best of your recollection, until the ship came off?

A. Yes.

Q. Without going any other place, simply staying

(Deposition of J. L. Brisco.)

right [574—238] there on the poop?

A. He might have walked in the chartroom to get a smoke and come out again, not stopping in the same place all the time.

Q. But not absent from the poop over a minute?

A. No.

Q. And you are sure that for five minutes before you went to call the boys until the ship came off he was on the poop all the time? A. Yes.

Q. Now, can you tell whether or not the rockets were fired before you went to call the boys?

A. They were fired afterwards.

Q. How long after you went to call the boys was it that the rockets were fired?

A. About half an hour.

Q. Now, you said that you were going around the deck watching Captain Miller's men—what time was that?

A. Well, I was walking around between eight o'clock and twelve; between eight o'clock and half-past eleven for sure.

Q. You took tea one time? A. Oh, yes.

Q. What time did you take tea?

A. Just after six o'clock.

Q. Then you were not watching Captain Miller's men at six o'clock or about six o'clock?

A. I had a look at the men.

Q. What were they doing between eight o'clock and twelve o'clock, his men? [575—239]

A. Most of them were on the fore-castle-head standing by the capstan.

Q. Were they working the capstan?

(Deposition of J. L. Brisco.)

A. They were not when I was up there.

Q. They were standing by ready to work it?

A. Yes.

Q. When was the last time you saw them standing by the capstan ready to work it?

A. Eight o'clock.

Q. You did not observe them after that, whether they were working it or not? A. No.

Q. Could you tell with what it was they were pulling when the ship came off, whether it was the winch or the capstan?

A. I am not sure about whether it was the capstan or the winch as I was on the poop at the time.

Q. So you could not tell?

A. No, I could not tell.

Q. Did you see them working the capstan at times?

A. Yes.

Q. Did you see them working the winch at times?

A. Yes.

Q. You said that the strain on Captain Miller's rope was great? A. It was a good strain on it.

Q. A very good strain? A. Yes.

Q. Could you tell which was the greatest strain, whether the "Arcona's" or Captain Miller's?

A. I could not tell. [576—240]

Q. How could you tell that the strain on Captain Miller's line was very great?

A. By standing on it.

Q. It was rigid—taut, very taut?

A. Yes, pretty taut.

Q. A constant strain?

A. Yes, there was a good strain on it.

(Deposition of J. L. Brisco.)

Q. Did you see the anchor of Captain Miller put down? A. Yes, I saw it dropped.

Q. And that was in a direct line with the cruiser too, was it not? A. Yes.

Q. After the "Arcona" was got in position?

A. Yes.

Q. Could you tell whether or not the "Celtic Chief" went further on the reef after she first struck, or not?

A. I cannot tell that.

Q. You could not tell? A. No.

Q. You say she bumped four or five times a day?

A. Five or six times a day.

Q. She would not bump then every few minutes, four or five times an hour? A. No.

Q. Could you form any conclusion in your own mind as to whether or not she was fast aground or floating? A. She was aground all right.

Q. Could you tell whether or not she had made a cradle for herself in the bottom?

A. I cannot tell that. [557—241]

Q. When the "Celtic Chief" began to move after you first observed her moving, she went very quickly out into deep water, didn't she? A. No.

Q. How slowly or how quickly?

A. She just went gradually off.

Q. Kept on moving all the time?

A. Yes, all the time.

Q. You could see she was moving all the time?

A. Yes.

Q. Didn't go for a foot or two and then stop, but kept gradually going until she got into deep water?

A. Yes.

(Deposition of J. L. Brisco.)

Q. No motion at all, as far as you could feel on the ship? A. No.

Q. Well, it didn't take very long to put her into deep water, did it?

A. About a quarter of an hour or twenty minutes.

Q. A quarter of an hour to put her into deep water?

A. Yes.

Q. Then she was not going very fast?

A. She was not going very fast.

Q. Very slow? A. Yes, very slow.

Q. Now you say that the line of the cruiser "Arcona" would slacken up and then they would tighten it up again? A. Yes.

Q. While the ship was moving off the reef?

A. Yes. [578—242]

Q. Could you account for that—how the line of the "Arcona" would be slack and then tightened?

A. No, I cannot account for that.

Q. You don't know why it was? A. No.

Q. Would that same thing take place with Captain Miller's line? A. Yes.

Q. Just as soon as the slack would make its appearance that slack would be taken in? A. Yes.

Q. And you could not tell whether that was done by the winch or the capstan?

A. I could not tell which it was.

Q. But Captain Miller's line was tight all the time?

A. Yes.

Q. Is it not a fact that the pull was to be made at high tide?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

(Deposition of J. L. Brisco.)

A. (By WITNESS.) I don't know that.

(By Mr. MAGOON.)

Q. You don't know anything about that?

A. No.

Q. Did you form any estimate in your own mind as to what time the ship would float?

A. No, I did not.

Q. You were not watching for her to come off at twelve o'clock or any other particular time?

A. No. [579—243]

Q. Just standing by to take advantage of anything that occurred? A. Yes.

Q. Had you slept at all at the time the ship went on the reef?

A. Yes, I had a few hours now and again.

Q. Did the captain sleep at all?

A. I don't know that; I was not with him all the time.

Q. Did you take the bearings of the position of the ship on the reef?

A. Yes, I had a bearing of the ship.

Q. Did you have a bearing on the night that the ship came off? A. Yes.

Q. What bearings were they?

A. It was a red and white light.

Q. How far were they apart?

A. As far as I could make out they were pretty close together.

Q. On which side of the "Celtic Chief" were they?

A. The starboard side.

Q. That is on this side, was it?

A. Yes, the starboard side.

(Deposition of J. L. Brisco.)

Q. Were they directly in line or not in line?

A. They were not in a line.

Q. So you could judge though between, as to the position, with reference to these lights as to whether or not the opening was larger or smaller?

A. Yes.

Q. That is not a very accurate way of judging—only approximately? [580—244]

A. I think it is the best way.

Q. They would have to be directly in line to be very accurate?

A. No, you fetch them directly in line.

Q. But they were not in line?

A. No, they were not in line but as the ship went they came in one.

Q. And if they were not in line when the ship started you could not tell very well as to the distance the ship moved before the ship came in line?

A. No.

Q. It might be an hundred feet or more?

A. I don't think it was an hundred feet.

Q. Well, how far should you say it was before those two lights came in line that the ship moved?

A. I don't know that.

Q. Well, would you say it was fifty feet?

A. I could not say.

Q. You say that the "Celtic Chief" was discharged by means of the winch, the barrel on the port side?

A. Yes.

Q. The barrel on the other side was used by Captain Miller's hawser, was it not? A. Yes.

Q. Why do you say that the discharging continued

(Deposition of J. L. Brisco.)

Salvage Company boats had parted their lines while they were attached to the "Celtic Chief"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

By Mr. WEAVER.—He has testified that they were perfectly safe; and that therefore this is proper cross-examination.

A. (By WITNESS.) Yes, I think there was one or two ropes carried away.

Q. Forward or aft?

A. I know our fore brace carried away.

Q. Attached to what?

A. Attached to one of the lighters.

Q. One of Captain Miller's lighters? A. Yes.

Q. Was there any more than that?

A. One rope aft.

Q. How large was the fore brace you speak of?

A. A four-inch rope.

Q. Is that a rope that will stand some swell?

By Mr. OLSON.—OBJECTION, on the ground that the witness has not shown that he is qualified.

[584—248]

(By Mr. WEAVER.)

Q. In your experience as a seaman is that a proper kind of a rope to use for that lighter at that time and in that weather?

By Mr. OLSON.—OBJECTION, on the ground that the witness is not qualified.

(OBJECTION WITHDRAWN.)

A. No.

(By Mr. WEAVER.)

Q. It is not? A. No.

(Deposition of J. L. Brisco.)

Q. Was it too small? A. It was too small.

Q. Any other rope did you use—what was the size of this other rope that you spoke of?

A. That was one of Captain Miller's.

Q. Did that carry away? A. Yes.

Q. Didn't the swell cause that?

A. Yes, the swell.

Q. When these lighters were alongside the "Celtic Chief" what would be the relative position of the rail of the lighters and the rail of the "Celtic Chief" when these swells came along?

A. That old battle-ship, that lighter—I don't know her name.

Q. The "Kaimiloa," what was her rail, how was her rail placed with regard to the "Celtic Chief" when the swell would come along and be at the highest point?

A. It was just about two feet below. [585—249]

Q. And when the lower part of the swell came along how low would it be below?

A. Four or five feet.

Q. Only two or three feet between the two?

A. Yes, four or five.

Q. And was that as large a swell as you noticed at that time? A. Yes.

Q. Did you notice where the "Celtic Chief," or where the cruiser was behind the "Celtic Chief," just before the "Celtic Chief" was floated, what position she had? A. Right astern.

Q. And after the "Celtic Chief" was floated where was the cruiser?

A. A little on the starboard quarter.

(Deposition of J. L. Brisco.)

Q. Closer to the "Celtic Chief"?

A. Yes, a little.

Q. When the "Celtic Chief" got hove taut on the evening of Wednesday, before nightfall, you could see these lines running from the cruiser to the "Celtic Chief," couldn't you? A. Yes.

Q. What did those lines look like—were they straight or was the bight in the water?

A. Tight; the bight was out of the water.

Q. All the time? A. Yes.

Q. After nightfall could you see?

A. No, I could not see.

Q. How far could you see these lines after nightfall between the ship and the cruiser, from where you were? [586—250]

A. I could see them about thirty feet, I should say, from the ship.

Q. That is all? A. Yes.

Q. Could you see during the hours of darkness, as the night was then, whether or not those lines were taut or slack, from what you saw?

A. They were taut.

Q. How do you judge that?

A. Well, at ten o'clock they had the search-light on them.

Q. Well, in the darkness before ten o'clock could you tell? A. Yes.

Q. How could you tell they were taut?

A. I could tell because I could see about thirty feet away.

Q. Could you tell whether the bight was in the water or not—was it a clear night?

(Deposition of J. L. Brisco.)

A. Yes, it was.

Q. Starlight? A. Yes.

Q. Couldn't you see these lines halfway to the cruiser? A. Yes, I could see about halfway.

Q. And couldn't you see whether they were in the water?

A. They were not in the water, as far as I could see.

Q. Well, if you saw only thirty feet you did not see halfway to the cruiser—which is correct—could you see thirty feet or more?

A. Well, I know I could see thirty feet. [587—251]

Q. Well, were either of the lines from the cruiser to the ship straight or was there a sag in them?

A. They were straight as far as I could see.

Q. There was no sag? A. No.

Q. Just like you would pull a fiddle-string straight? A. Yes.

Q. And that continued up to what time?

A. That was like that all the time.

Q. After the search-light went on that night?

A. Yes.

Q. And up to the time that the ship came off what was the condition of those lines, the same straight as a string?

A. When the ship came off they slacked up a bit.

Q. And when you saw the cruiser off the starboard stern of the ship these lines were also straight?

A. No.

Q. What was the difference?

A. When she was off they would slack up.

(Deposition of J. L. Brisco.)

Redirect Examination by Mr. OLSON.

Q. How soon after you first noticed that the ship began to move, which you have said was about twelve o'clock on the night of Wednesday, December the 8th, was the first signal by rocket or star fired by the German on board the "Celtic Chief"?

A. Well, as soon as we noticed her move it was fired.

Q. Almost immediately?

A. Yes, almost immediately. [588—252]

[Endorsed]: No. 116. Libellee's Deposition of J. L. Briscoe. Filed Dec. 20, 1911. [589]

[Deposition of Marius Sorensen, for Libellee.]

MARIUS SORENSON, called on behalf of libellee, sworn.

(By Mr. OLSON.)

Q. What is your name? A. Marius Sorenson.

Q. What is your occupation?

A. Norwegian; carpenter.

Q. Ship's carpenter? A. Yes.

Q. On board of what ship?

A. "Celtic Chief."

Q. A British ship? A. Yes.

Q. Where is she?

A. At the Hackfeld wharf in Honolulu.

Q. When did she come to Honolulu?

A. I cannot tell you the date of that.

Q. Do you remember going aground last December? A. Yes.

Q. Outside the harbor entrance to Honolulu?

A. Yes.

(Deposition of Marius Sorensen.)

Q. Do you remember the date when she went aground? A. No, I cannot tell you.

Q. It was early in December? A. Yes.

Q. Of last year? A. Yes.

Q. Do you know whether or not there is a steam winch on board the "Celtic Chief"?

A. Yes, I drive that myself.

Q. You drive that yourself?

A. Yes. [590—253]

Q. While the "Celtic Chief" was on the reef do you know whether or not Captain Miller of the Miller Salvage Company had anything to do with helping to get the "Celtic Chief" off?

A. I cannot tell you that. He came out in the night and that day was using the winch. I could not tell you that.

Q. Do you recognize Captain Miller, the gentleman sitting over here to your left? (Pointing to Captain Miller.) A. Yes.

Q. You recognize Captain Miller? A. Yes.

Q. Was he out there on the "Celtic Chief"?

A. Yes.

Q. On Wednesday? A. Yes.

Q. That is the day before she came off?

A. She came off in the night between twelve and one o'clock.

Q. Did you observe the hawser that went from the "Celtic Chief" out to Captain Miller's anchor?

A. I did not take any notice of that at all.

Q. Did you observe any tackles on the "Celtic Chief"? A. Yes.

Q. Attached to a hawser there? A. Yes.

(Deposition of Marius Sorensen.)

Q. Was the steam winch used at all in heaving in on those tackles?

A. She was hove in about four or five o'clock in the afternoon; at dinner-time there was—I cannot exactly say, but they were using the winch for heaving but whether it was for heaving tight or shifting anything I don't know. [591—254]

Q. You were at the engine?

A. No, I was at the donkey-boiler; that other apprentice was driving the winch, but there was two gangs heaving on that so I had to keep steam up. When they were working over that hold there was two gangs working there.

Q. Well, was the winch used for the purpose of heaving in on those tackles which were attached to the hawser?

A. Well, they had a turn on the winch end there, Captain Miller's men.

Q. Before five or six o'clock on Wednesday had this winch been used for heaving in on the tackles?

A. Yes.

Q. From one o'clock on?

A. They were used sometimes and sometimes not.

Cross-examination by Mr. WEAVER.

Q. What time did you first notice this winch used?

By Mr. OLSON.—OBJECTION, on the ground that it is indefinite—when do you mean, when the vessel was on the reef or when she was starting?

A. (By WITNESS.) What for, sir?

(By Mr. WEAVER.)

Q. For the purpose of heaving.

A. What heaving, sir—heaving cargo or what?

(Deposition of Marius Sorensen.)

Q. You have been saying that you saw Captain Miller using this winch to heave in on the tackles—what time and day did you notice that?

A. Just in the dinner hour.

Q. What day.

A. What? Wednesday, dinner-time, I think.
[592—255]

Q. How long did that continue?

A. I cannot remember that. I did not take much notice of the days and that.

Q. This was Wednesday you are speaking of, the day before the ship came off?

A. Yes, she came off in the night.

Q. And it was dinner-time, at noon, that you first noticed this winch used? A. Yes.

Q. How long was it used?

A. They were using it three or four times.

Q. Five minutes at a time?

A. I cannot tell you exactly the time.

Q. Half an hour? A. I cannot tell you.

Q. All together how much was it used that afternoon?

A. I don't know. I did not take much notice of that; they were heaving cargo at the same time and I did not take much notice.

Q. Can you say whether that winch was used for five minutes all together that afternoon, before dark of Wednesday?

A. They broke it once and they were heaving three or four times on it; a couple of hours, I don't know how many, they were using it.

Q. Was it used half an hour all together?

(Deposition of Marius Sorensen.)

A. I think over half an hour.

Q. Well, was it used one hour all together?

A. I cannot tell that; I cannot say how many hours they were using it; I have no time by me.

Q. Did you refuse to let it be used at any time by [593—256] Captain Miller's men?

A. What is that?

Q. Did you refuse to let this winch be used by Captain Miller's men at any time on Wednesday afternoon or evening? A. In the evening.

Q. Any time that Wednesday afternoon or evening? A. I did not refuse anyone.

Q. You did not interfere in any way?

A. No, I did not interfere with anyone. I had orders to keep the steam on it and that is all. Who was to use it I cannot tell you; I had nothing to do with that.

Q. You testified, didn't you, that some of the blocks were Captain Miller's blocks?

A. What blocks, sir?

Q. That is all.

Cross-examination by Mr. LEWIS.

Q. What is your watch on board the "Celtic Chief," on Wednesday afternoon? A. Watch?

Q. Yes, what watch did you stand?

A. I had no watch at all then; I was working all day.

Q. What time did you quit work?

A. I quit work at six o'clock; no, I was standing by two days and one night.

Q. Well, on Wednesday, I understand you quit work at six o'clock? A. Yes, sir.

(Deposition of Marius Sorensen.)

Q. And you did not go on again?

A. No, I did not work any more after that.

Q. That is six o'clock P. M.?

A. Yes. [594—257]

[Endorsed]: No. 116. Libellee's Deposition of M. Sorenson. Filed Dec. 20, 1911. [595]

[Deposition of A. Gordon, for Libelee.]

A. GORDON, called in behalf of libellee, sworn.

(By Mr. OLSON.)

Q. What is your name? A. Alexander Gordon.

Q. What is your occupation?

A. Apprentice aboard the "Celtic Chief."

Q. What nationality is the "Celtic Chief"?

A. A British ship.

Q. How long have you been on the "Celtic Chief"?

A. Two years and ten months.

Q. Where is the "Celtic Chief" at the present time? A. I believe it is the Hackfeld wharf.

Q. In Honolulu? A. Yes, Honolulu.

Q. When did she come to Honolulu?

A. On the 5th of December.

Q. Do you remember her grounding just outside the harbor entrance to Honolulu? A. Yes.

Q. Do you know whether or not there is a steam winch on board the "Celtic Chief"?

A. Yes, there is.

Q. Have you anything to do with that?

A. I was driving it while she was on the reef.

Q. What for? A. Discharging cargo.

Q. Anything else?

A. Well, it was used a little for heaving in some lines.

(Deposition of A. Gordon.)

Q. Whose lines? A. Captain Miller's.

Q. When? [596—258]

A. On the Wednesday morning.

Q. What for?

A. When he was setting up his anchor.

Q. Was it used after that in heaving in on that line? A. No, I don't think so.

Q. Do you know whether or not it was used that night? A. No, I don't think it was.

Q. Do you remember when the vessel came off the reef? A. Yes.

Q. At about what time was that?

A. That would be about a quarter past twelve.

Q. Do you know whether or not the winch was used at that time in heaving in on Captain Miller's line?

A. I don't think so.

Cross-examination by Mr. WEAVER.

Q. Was that winch used by Captain Miller when the vessel came off? A. I don't think so.

Q. How long was that winch used in the morning of Wednesday?

A. Well, it was going all of Wednesday.

Q. Well, it was used by Captain Miller on Wednesday, I think you said? A. Yes.

Q. How long a time was it used?

A. About an hour.

Q. All together? A. Yes.

Q. That is all it was used by Captain Miller that day or night? [597—259]

A. To my knowledge, yes.

Q. How do you know that—you had charge of this winch all the time, didn't you?

(Deposition of A. Gordon.)

A. No, I was relieved at six o'clock each evening.

Q. Did you work there until six o'clock on Wednesday? A. Yes, I was relieved at six o'clock.

Q. After six o'clock did you go on working?

A. No.

Q. Who took charge after you left?

A. There was two men but I don't know where they came from; stevedores, I think.

Q. Whose men were they—you don't know?

A. They were two stevedores.

Q. Not men of your ship? A. No.

Cross-examination by Mr. LEWIS.

Q. After you were relieved at six o'clock on Wednesday night where did you go?

A. Well, I had my tea and then turned in, and I was out on deck again about eleven o'clock.

Q. Well, these stevedores, as you say, who were handling the winch on Wednesday night, were the same men who were handling it on Tuesday night?

A. I cannot be sure; I don't remember now.

Q. What is your impression?

A. I cannot say whether they were or not.

Q. Were you about the main deck at all on Wednesday night? A. Yes.

Q. After eleven o'clock? [598—260]

A. I was aft underneath the break of the poop from eleven o'clock until the time she came off.

Q. Well, from the break of the poop the barrel of the steam winch on the starboard side is quite visible, is it not?

A. Well, it would be in the daytime.

Q. Did you see it there at that time that night?

(Deposition of A. Gordon.)

A. No, I did not take any notice of it.

Q. Well, as far as you noticed there on Wednesday night was there any use made of the steam winch to heave in on Captain Miller's lines?

A. I do not think it was used; I did not hear it going.

Q. That is all.

By Mr. OLSON.—That closes these depositions.

By Mr. LEWIS.—IT IS HEREBY STIPULATED AND AGREED between counsel in this case that these depositions may be kept open for the purpose of acquiring the ship's papers from the British consul for the purpose of identification for proof of value.

By Mr. OLSON.—No, for any purpose for which counsel may offer the same.

By Mr. LEWIS.—Yes, that will do.

By Mr. OLSON.—Subject to objections that may be made thereto.

By Mr. LEWIS.—Yes, that is all right.

(Adjournment was here taken until ten o'clock to-morrow morning, at the office of the Clerk of the United States District Court.) [599—261]

[Endorsed]: No. 116. Libellee's Deposition of A. Gordon. Filed Dec. 20, 1911. [600]

Tuesday, February 1st, 1910 (10 A. M.).

The parties in the above-entitled cause met, pursuant to adjournment, at the office of the Clerk of the United States District Court, and by agreement adjourned immediately to the courtroom of the United States District Court, where the following

proceedings were had:

By Mr. LEWIS.—I would like to have the record show that His Imperial Britannic Majesty's Consul, Ralph Forster, was present, pursuant to a request by counsel for libellants, the Inter-Island Steam Navigation Company and Matson Navigation Company.

[**Deposition of Captain Henry, for Libellants.**]

Captain HENRY, called in behalf of libellants.
(By Mr. LEWIS.)

Q. Captain Henry, I now present to you a document or paper entitled, "Certificate of British Registry," which has just been handed to me by His Britannic Majesty's Consul, Mr. Ralph Forster, and I ask you if you have ever seen this document before?

A. Yes, I have.

Q. State, if you know, how that document came in the possession of Mr. Forster—you delivered that to Mr. Forster? A. Yes, I did.

Q. What is that document?

A. It is the "Celtic Chief's" register.

Q. How did that come into your possession?

A. I got it when I took command of the ship.

Q. It was on board of the ship?

A. No, it was not.

Q. Where did you get it? [601—262]

A. It was at the Customs.

Q. Where? A. In England, at Port Talbot.

By Mr. LEWIS.—I now offer this document in evidence and ask that permission be given for it to be withdrawn, owing to the fact that the document is in the possession of His Britannic Majesty's Con-

(Deposition of Captain Henry.)

sul, pursuant to certain proceedings had before the consul.

By Mr. OLSON.—I suggest that there ought to be a copy of this by stipulation of counsel.

By Mr. LEWIS.—Yes, and that a copy be introduced in lieu of the original, and that the copy be marked, "Lewis' Libellants' Exhibit # 2."

By Mr. OLSON.—IT IS HEREBY STIPULATED by and between counsel for all of the libellants and counsel for claimant that a copy of the Certificate of British Registry thus offered in evidence may be filed with the Commissioner in place of the original.

By Mr. WEAVER.—I will agree to that.

By Mr. LEWIS.—I will stipulate that.

By Mr. OLSON.—That is agreeable. The offer of the document has been made, what is the purpose of this offer, Mr. Lewis?

By Mr. LEWIS.—The purpose of the offer is that it is the best evidence [602—263] of the character of the ship, being a British ship, and it is evidence of the ship's number, and the full particulars concerning the description and identification of the ship.

By Mr. OLSON.—I OBJECT to the evidence offered.

By Mr. LEWIS.—And further on the ground that when Captain Henry was on the stand testifying as to certain particulars relative to the description of the ship, both counsel for the Inter-Island Steam Navigation Company and Matson Navigation Company, and also counsel for the Miller Salvage Company, at that time made a demand upon Captain

(Deposition of Captain Henry.)

Henry for the production of this document, and they were informed that the same was in the possession of His Britannic Majesty's Consul, and it was thereupon agreed between counsel that an endeavor should be made to obtain the document now offered in evidence, from His Britannic Majesty's Consul and introduce the same here.

By Mr. OLSON.—In view of the foregoing stipulation, I do not object to the filing with the Commissioner of a copy in place of the original, the filing of the original being hereby expressly waived; but I OBJECT to the evidence so offered on the ground that it is incompetent, irrelevant and immaterial; that it is not the best evidence of the facts set out to be proved; and further, that it does not tend to prove any of the issues in the case. And further on the ground that it is hearsay.

(By Mr. LEWIS to Witness.)

Q. This document which you have just testified to, Captain Henry, is the only certificate of British registry of the "Celtic Chief" which you have?
[603—264]

A. That is all.

Q. And this is the document which you have acted upon always as showing the nationality of your ship?

A. Yes, that is so.

Q. And every port of entry which you have visited? A. Yes, quite so.

Q. And this is the document which you presented here when you entered herein the harbor of Honolulu? A. Yes.

Q. To the Custom officials?

(Deposition of Captain Henry.)

A. Not to the Customs officials.

Q. To whom?

A. To His Britannic Majesty's Consul.

Cross-examination by Mr. OLSON.

Q. Captain, when did this certificate come into your possession?

A. When I was leaving Port Talbot.

Q. When was that? A. About June, 1907.

Q. Has that document been altered in any respect since that time? A. No.

Q. Not in any respect? A. No.

Q. It has been in your possession since that time?

A. Yes.

Q. Until you handed it to Mr. Forster, His Britannic Majesty's Consul, in Honolulu?

A. At all times, only when I visit a port and I give it up. [604—265]

By Mr. OLSON.—I now renew the OBJECTION that I have heretofore made.

By Mr. LEWIS.—In view of counsel's last statement I will ask Captain Henry:

Q. Referring to this document, whether or not the ship's official number is not 91,271?

A. 91,271, yes.

Q. I will further ask you if the data herein contained correctly describes the ship "Celtic Chief"?

By Mr. OLSON.—OBJECTION to the question, on the ground that it does not appear whether or not the witness is qualified to answer, whether he knows of his own knowledge.

A. (By WITNESS.) Yes, I believe it does.

(By Mr. LEWIS.)

(Deposition of Captain Henry.)

Q. Of your own knowledge?

A. Yes, as far as I know.

Recross-examination by Mr. OLSON.

Q. Where did you get the information upon which you state that the data therein contained is correct—you say—"as far as I know"?

A. Well, I have no information at all; the paper was just handed to me, and that is all.

Q. So that your information is obtained from that document? A. Yes, from that document.

By Mr. OLSON.—I again renew my OBJECTION. And I also move to strike the witness' answer to the question asked by counsel as to [605—266] whether or not the data contained in that certificate is correct, on the ground that the Captain's testimony is hearsay.

(Adjournment here taken.)

Honolulu, T. H., February 14th, 1910.

I HEREBY CERTIFY the foregoing to be a full, true and correct transcript of my stenographic notes taken in the above-entitled cause.

(Sgd.) RALPH A. KEARNS,

Reporter. [606]

[Title of Court and Cause—Nos. 115, 116, 117.]

**Direct Interrogatories to be Propounded to
Fregatten Kapitaen Hermann Schroeder.**

[734]

1. State your name, occupation and present position in your profession.
2. How long have you been in the German navy?

3. State fully what training you have had in navigation and maritime matters.
4. Are you acquainted with the German cruiser "Arcona"?
5. What was your position on the said "Arcona" while she was in the port of Honolulu in the month of December, 1909?
6. Do you know the tonnage and horse-power of the said "Arcona"? If so, state the same.
7. What donkey-engines, winches, tackles, anchors and hawsers did the "Arcona" have while so in the port of Honolulu? If any, describe the same fully as far as you can of your own knowledge.
8. Are you acquainted with the British ship named the "Celtic Chief," that was stranded in the harbor of Honolulu in the Territory of Hawaii from the 6th day of December, 1909, to the 9th day of December, 1909?
9. State whether or not the said "Arcona" had anything to do with the said "Celtic Chief" while so stranded. If so, what led up to the same? [735]
10. If you answer the first part of the last interrogatory in the affirmative, state what was done by the said "Arcona."
11. State whether or not you, or any other officer of the said "Arcona," if you know, examined the said "Celtic Chief," her position and condition while so stranded, and if so when such examination was made. If you made such examination, state what you found.

12. What assistance, if any, was being rendered to your knowledge to said "Celtic Chief" at the time of such examination?
13. What advice, if any, for the relief of the said "Celtic Chief" was given by you or in your hearing by any other officer of the said "Arcona" to the said "Celtic Chief" or those or any one in charge of her and to whom was the same given?
14. State whether or not the said "Celtic Chief" changed her position from the 7th of December, 1909, to the early morning of the 8th of December, 1909, and if so, what such change consisted of.
15. When, if at all, did the said "Arcona" go to the assistance of the said "Celtic Chief"?
16. What did the said "Arcona" do upon her arrival at the scene of stranding of the said "Celtic Chief"?
17. Describe the position taken by the said "Arcona." [736]
18. State whether or not the said "Arcona" laid out any anchors in connection with her operations for the relief of the said "Celtic Chief."
19. When were such anchors or anchor laid?
20. What use was made of such anchors or anchor?
21. Do you know the kind, size and weight of such anchors or anchor? If so, state the same fully.
22. How, if at all, were such anchors or anchor connected with said "Arcona"?
23. If you shall have testified that chains or a chain

connecting such anchors or anchor with said "Arcona" were heaved in, state what means were used for the purpose of heaving in such chains or chain.

24. How, if at all, was said "Arcona" connected with or made fast to said "Celtic Chief"?
25. If you shall have testified that the said "Arcona" was connected with said "Celtic Chief" by a line or lines, describe fully, if you know, the line or lines so used by the said "Arcona," stating in particular the size, condition and character thereof. Furnish, if you can, a sample piece of the line or each of the lines so used by the said "Arcona." [737]
26. State, if you can of your own knowledge, whether or not any test of the strength of any line so used by the said "Arcona" was made during her operations in connection with said "Celtic Chief." If so, what was the test, and what was the result thereof?
27. If you shall have testified that a line or lines were made fast from the said "Arcona" to the said "Celtic Chief," when were they made fast, giving as nearly as possible the precise times of day.
28. During what period or periods of time were such lines or line kept fast from said "Arcona" to said "Celtic Chief"?
29. State whether or not the said "Arcona" was made fast to the said "Celtic Chief" at the time of the floating of the said "Celtic Chief." If so, how?

30. Do you know whether or not any power or strain was exerted upon said lines during the time that each was kept fast from said "Arcona" to said "Celtic Chief"? If so, do you know how much? If so, state how much and what variations if any there were from time to time.
31. State whether or not during the period or periods that said "Arcona" was kept fast to the said Celtic Chief" the said line or lines were kept taut or otherwise.
32. If you shall have testified that an anchor or anchors were laid by and connected with said "Arcona," state whether [738] or not such anchor or anchors after being laid held fast during the said "Arcona's" operations in attempting to render assistance to said "Celtic Chief."
33. State what agencies besides the said "Arcona" were attempting to render assistance to said "Celtic Chief" from the time that said "Arcona" arrived at the scene of stranding of said "Celtic Chief" until the floating of said "Celtic Chief."
34. Relate fully what, as far as you observed, said agencies did during said last mentioned period of time in attempting to render assistance to said "Celtic Chief."
35. State, if you know of your own knowledge, whether or not during said last mentioned period of time, the lines by which the said last mentioned agencies were kept fast to

said "Celtic Chief" were kept taut or otherwise.

36. State what said agencies other than said "Arcona" did, as far as you observed, in attempting to render assistance to said "Celtic Chief."
- 36a. Relate fully and in detail everything that was done to your knowledge by the said "Arcona" in connection with her attempt to render assistance to said "Celtic Chief" at the time of the floating of said "Celtic Chief" and during the three hours immediately preceding said floating.
37. Relate fully and in detail everything that was done, to your own knowledge, by the said "Arcona" in connection with her attempt to render assistance to said "Celtic Chief" that has not already been testified to by you in answer to the foregoing interrogatories.
[739]
38. What, in your opinion, was the cause of the floating of the "Celtic Chief," stating upon what you base your opinion, including your own experience in salving vessels, in maritime matters and in navigation, as well as your knowledge of the facts.

[Endorsed]: No. 116. Direct Interrogatories to be Propounded to Fregatten Kapitaen Hermann Schroeder. Filed July 2, 1910. [740]

[Title of Court and Cause—Nos. 115, 116, 117.]

Cross-interrogatories to be Propounded to Fregatten Kapitaen Hermann Schroeder on Behalf of Libellants Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company. [749]

1. If, in reply to direct interrogatory No. 6, you have stated that you know the tonnage and horse-power of the "Arcona," and have also stated such tonnage and horse-power, state the source of your information on these matters, and upon what you base your answer.
2. If, in reply to direct interrogatory No. 9, you have stated that the assistance of the "Arcona" was requested by the "Celtic Chief," state how you know such to have been the case; also whether such request was made to you in person or to some other person in your presence.
3. If made to some person other than yourself, state to whom it was made.
4. When, where, and by whom, was the request made?
5. What persons other than those you have mentioned were present?
6. If you have answered the first part of direct interrogatory No. 9 in the affirmative, and have also in answer thereto or to direct interrogatory No. 10 stated what was done by the "Arcona" in connection with the stranded "Celtic Chief," state how far your answer is based upon your own personal ob-

servation, and what facts are stated upon information received by you from others.

7. If, in reply to direct interrogatory No. 11 you have stated that you personally examined the position and condition of the "Celtic Chief," state when you made such examination, giving the date and hour. [750]
8. How did you proceed with such examination?
9. Of what did it consist?
10. Who were present?
11. What part or parts of your findings or conclusions, if any, were based upon the observation or examination by others and reported to or learned by you?
12. If, in reply to direct interrogatory No. 13, you have stated that advice was given by you or by some other officer of the "Arcona" to the "Celtic Chief," state where and when such advice was given, giving the date and hour.
13. Who were present at that time, and under what circumstances was the advice given?
14. If, in reply to direct interrogatory No. 14, you have stated that the "Celtic Chief" moved toward the land between December 7, 1909, and the early morning of December 8, 1909, state what observations were made to determine this, from what place, and by whom.
15. If such observations were made by anyone other than yourself, how did you learn of them?
16. What bearings did you have, giving their relative positions with respect to your position and the "Celtic Chief" and the approximate

distance between these several points?
[751]

17. What position was assumed by the "Arcona" in attempting to render assistance to the "Celtic Chief"?
18. If you have answered direct interrogatory No. 18 in the affirmative, and further answered direct interrogatories Nos. 19, 20, 21 and 22, or any of them, describe further: How far ahead of the "Arcona" each anchor was laid, and in what direction or position with respect to the "Arcona" were they after she assumed her final position?
19. Did she maintain such position and distance until the "Celtic Chief" was floated?
20. If, in reply to direct interrogatory No. 23, or to any preceding interrogatory, you have stated that the chains connected with the anchors of the "Arcona" were heaved in by the use of winches, state what horse-power was exerted by each of such winches.
21. If, in reply to direct interrogatory No. 25, you have described the lines connecting the "Arcona" with the "Celtic Chief," state when you first examined them.
22. Of what did your examination consist?
23. Had these lines been used before, and if so, how many times?
24. If you have furnished a sample, state from what part of the line the sample was cut. [752]
25. Are not all lines of this size and character identical in appearance?
26. Did you have other lines aboard of the same size

and general appearance?

27. Can you swear positively that the sample furnished is a part of the particular line used, after so many months have elapsed since you were in Honolulu?
28. If, in reply to direct interrogatories No. 24 and 25, or either of them, you have said that the "Arcona" was connected with the "Celtic Chief" by a line or lines, please describe further the distance of the stern of the "Arcona" from the "Celtic Chief."
29. In what precise position did the "Arcona" lie with respect to the "Celtic Chief"?
30. What was the length of each line between the points of their connection to, and where was each of the lines of the "Arcona" made fast to the "Celtic Chief," stating also whether such lines lay over or under or crossed the lines of other assisting vessels and the point and manner of crossing in each case.
31. If, in reply to direct interrogatory No. 26, you have stated a test of the strength of any line or lines connecting the "Arcona" with the "Celtic Chief" was made by straining thereon, and that as a result of such strain any such line or lines parted, state whether or not you know, of your [753] personal knowledge, how much power was being exerted when the line so parted, and what is the source of your knowledge.
32. Where were you when the "Celtic Chief" was floated, and for how long had you been there?

33. State whether the pulling done by the "Arcona" was continuous from the time she first began until the "Celtic Chief" was floated or whether there were cessations at times.
34. If the pulling was not continuous from first to last, state the date and hour when the final pull was begun, and whether the "Arcona" then pulled alone or in concert with other assisting vessels.
35. State whether such final pulling by the "Arcona" was begun in response to any signal given for the purpose, and if so, when and how and by whom such signal was given.
36. What was the arrangement, if any, as to giving signals to the vessels rendering assistance to the "Celtic Chief"?
37. Was more than one signal to be given; if so, how many and what were they?
38. How long an interval was there between the various signals?
39. From the time the "Arcona's" lines were first made fast to the "Celtic Chief" up to the time the "Celtic Chief" was floated, state the time or times you were on duty and the time or times you were off duty. [754]
40. From the time the "Arcona's" lines were first made fast to the "Celtic Chief" up to the time the "Celtic Chief" was floated, describe the relative positions of the "Arcona" and the "Celtic Chief," and in what direction each was headed just after the "Celtic Chief" was floated.
41. Referring to your answer to direct interroga-

tory No. 36a, state whether or not any part of the same relates to matters not done or observed by you in person, but is based upon reports made to you by your junior officers, or others, indicating what part or parts are stated upon such information.

42. Referring to your answer to direct interrogatory No. 37, state whether or not any part of the same relates to matters not done or observed by you in person, but is based upon reports made to you by your junior officers, or others, indicating what part or parts are stated upon such information.

43. Has your information regarding any of the matters concerning which you have testified been derived from or assisted by a reading of any official reports of the occurrence?

[Endorsed]: No. 116. Cross-interrogatories to be Propounded to Fregatten Kapitaen Hermann Schroeder on Behalf of I. I. S. N. Co., Ltd., & Matson Navigation Co. Filed Jul. 9, 1910. [755]

[Title of Court and Cause—Nos. 115, 116, 117.]

Cross-interrogatories to be Propounded to Fraegatten Capitaen Hermann Schroeder.

1. If in answer to the twelfth interrogatory, you made such examination, state what day and time of day you made the examination and who were present with you, stating the particulars of what you did in order to make the examination.

2. At the time you made your examination, did not

the Miller Salvage Co., under the direction of Captain Miller, have a steel cable extending out astern of the "Celtic Chief" to a mooring the shore end of which was spliced to a hawser extending aboard the "Celtic Chief" and rigged to purchase tackles on the deck of the "Celtic Chief"? [756]

3. Is it not a fact that the "Celtic Chief" was moving further on the reef up to the evening of December 8, 1909?
4. Is it not a fact that the officers of the "Arcona" had an agreement with the officers of the "Celtic Chief" that on the evening of Wednesday, December 8, 1909, signals were to be given from the "Celtic Chief" to the "Arcona" to indicate to the "Arcona" that the "Celtic Chief" was ready to have an effort made by the "Arcona" to pull her off the reef?
5. If you answer that signals were to be given, what were they and what was it agreed that each signal should indicate to the "Arcona"?
6. If you answer that signals were to be given to the "Arcona," was the "Arcona" pulling on the "Celtic Chief" before the first of such signals was given, and if so what strain was on her lines to the "Arcona" just before the first signal given stating the appearance of the lines with regard to being taut; and the position of such lines with regard to the surface of the sea?
7. If you answer that a signal was given from the

"Celtic Chief" to the "Arcona," state what effect, if any, that first signal had on the effort of the "Arcona" to pull the "Celtic Chief" off the reef, stating what difference there was in the effort made by the "Arcona" and any other particulars describing what was done on board the "Arcona" in relation thereto immediately after the first signal as compared with what had been done before the first signal?

8. Where were you at the time the "Celtic Chief" first started to move seaward off the reef?
9. If you answer that you were on board the "Celtic Chief" when the "Celtic Chief" first started to move seaward, please state, if you know, whether the "Celtic Chief" was being moved by the steel cable of the Miller Salvage Co. running astern before you came on board. [757]
10. If you say that you were aboard the "Celtic Chief" just prior to her moving off the reef and that signals were to be given from the "Celtic Chief" to the "Arcona," please state, if you know, whether or not the "Celtic Chief" was being moved seaward before the signals were given from the "Celtic Chief" to the "Arcona" to start pulling.
11. If you answer that the "Celtic Chief" was moving seaward before the signals were given, please state what you know of your own knowledge with regard to such fact.
12. Did you have, at that time, any ranges (shore

lights or otherwise) by which you could determine the fact that the ship was moving seaward?

13. Have you ever had any experience in floating a vessel other than this one? If so, what experience have you had?
14. At the time that the "Celtic Chief" was floated and half an hour immediately prior thereto, did the "Arcona" have any strain on the lines from the "Arcona" to the "Celtic Chief," and if so, describe such strain as best you can and how long such strain continued?
15. If you answer that you knew of such facts, please state what means of observation you had during such half hour and what you were doing during that time.
16. Was there not an agreement between the officers of the "Arcona" and the officers of the "Celtic Chief" that signals should be given by some kind of fireworks, and if so, what were these signals if you know, and at what time were they given?
17. If you answer that you know what these signals were; was not one signal arranged as a signal for the "Arcona" to begin pulling on the "Celtic Chief," and was not another signal arranged which would indicate to the "Arcona" that the "Celtic Chief" was moving seaward? [758]
18. Was not another signal arranged to indicate to the "Arcona" that the "Celtic Chief" was floating?

19. Was there not a time agreed upon by the officers of the "Arcona" and the "Celtic Chief" when the "Arcona" should be expected to be prepared to pull on the "Celtic Chief"?
20. If you answer in the affirmative, was not this time agreed upon the time of high tide on that night?
21. If so, what was the time in hours and minutes if you know?
22. Were these signals as agreed upon given and, if so, when they were given were they not given so close together that there was a very small interval of time between them?
23. If you answer that there was a very small interval of time between the signals, were not these signals given so close together as to give you the impression as being practically a continuous set of signals?
24. If the foregoing do not state the facts in regard to the signals arranged and the method of carrying out the orders, tell all you know with regard to the signals arranged and the method of carrying out the orders.
25. How long was it before the first and the last signal, if you know?

Honolulu, T. H., July, 1910.

[Endorsed]: No. 116. Cross-interrogatories to be Propounded to Fraegatten Capitaen Hermann Schroeder by the Miller Salvage Co., Libellant. Filed July 9th, 1910. [759]

**Deposition of Fraegatten Capitaen Hermann
Schroeder. [760]**

AMERICAN CONSULATE.

Tsingtau, Kiaochow, China,

September 26th, 1910.

CAPTAIN HERMANN SCHROEDER, after
being duly sworn, makes the following deposition:

In answer to direct interrogatory Number 1 he
saith:

Hermann Schroeder; Naval Officer; Commandant
of the Imperial German Cruiser "Leipzig."

In answer to direct interrogatory Number 2 he
saith:

Twenty-three and a half years.

In answer to direct interrogatory Number 3 he
saith:

General training of a naval officer, like in the
greater navies, twenty-three and a half years.

In answer to direct interrogatory Number 4 he
saith:

Yes.

In answer to direct interrogatory Number 5 he
saith:

I was captain of the "Arcona."

In answer to direct interrogatory Number 6 he
saith:

The tonnage of the "Arcona" is 3,100 tons, 8,000
horse-powers.

In answer to direct interrogatory Number 7 he
saith:

Two donkey-engines for weighing anchors, one

(Deposition of Captain Hermann Schroeder.)

capstan for hand use, several tackles, three anchors of 2,250 kilo weight each, three steel hawsers 225 meters long each; one with a circumference of 10 centimeters, one with a circumference of 7 centimeters and one with 6 centimeters circumference. Besides, these, 4 steel hawsers of 75 meters length and 10 centimeters circumference, being used to tie the ship to a wharf. Three or four manila hemp lines were also on board.

In answer to direct interrogatory Number 8 he saith:

Yes.

In answer to direct interrogatory Number 9 he saith:

Yes, she attempted to pull her off a coral reef near Honolulu. I assisted her upon the request of the British Consul. [761]

In answer to direct interrogatory Number 10 he saith:

The "Arcona" left Honolulu on the eight of December, 1909, about 11 o'clock in the morning and anchored near the "Celtic Chief." I ordered, to the best of my knowledge, some thin lines of hemp and steel to be brought on board of the "Celtic Chief," in order to haul over a big steel hawser of that ship on board the "Arcona," and to fasten it on board of the "Celtic Chief" with one end, and the other end on board of the "Arcona." For this purpose, as much as I know, I once changed my berth. After fastening the hawser I ordered the anchor chain of the "Arcona" to be heaved short, I do not remember to what length, but until the hawser was taut. Then

(Deposition of Captain Hermann Schroeder.)

I ordered the ship's engines to go ahead as slow as possible, and to increase the revolutions gradually. When the engines made revolutions for a speed of eight knots an hour, the hawser snapped. After this I ordered the 10 centimeter hawser of the "Arcona" to be fastened on both ships, having been lengthened by one steel hawser of 75 meters length, and I also ordered the first hawser of the "Celtic Chief" to be repaired and used again, having also been lengthened by a piece of hawser 75 meters long, from the "Arcona." Then I ordered both hawsers to be made taut, by heaving in the chain. This work was done about 6 o'clock in the afternoon. Then I ordered the hawsers to be kept taut all the time by heaving in the chain as soon as the hawsers would slacken; by that means the "Celtic Chief" was floated through the rising tide about 11:30 P. M. By this time I had hauled in about 25 meters of the chain from the time when the hawsers had been hauled taut. Then I raised anchor and towed the "Celtic Chief" near the entrance of Honolulu harbor. Immediately after being floated the "Celtic Chief" was pulled a little distance by three tugs [762] into deeper water until the "Arcona" had lifted her anchor. When I pulled the "Celtic Chief" to the entrance of the harbor, it was very difficult to tow the "Celtic Chief" as the stern of the vessel was directed towards the stern of the "Arcona," not being in a position to use her rudder. About at 1:30 A. M., one of the tugs took over the ship, and I ordered my hawsers to be pulled on board of the "Arcona."

In answer to direct interrogatory Number 11 he saith:

(Deposition of Captain Hermann Schroeder.)

Yes, I examined the "Celtic Chief" twice before I left Honolulu with the "Arcona." I came in company with some of my officers. The first examination was made in the morning of the seventh of December; the second one of the morning of the eighth of December. The ship was tight, lying, as much as I know, on a coral ground with the entire length of her keel, more firmly with her aft part than with her fore part. The fore part swung from side to side by the incoming swell, and the noise of the iron bottom scraping over the corals could be heard in the aft part. The ship was pounding upon the reef rather hard when it was moving through the swell. Aft, amidships and in the forepart were 19, 18 and 16 feet of water respectively, alongside of the ship. The captain of the "Celtic Chief" told me that the draught of the ship before running aground was 20 feet in the fore part and 24 feet aft, and that he had taken out 240 tons of cargo, since the ship stranded, and was still unloading more. At the second examination conditions and circumstances were about the same as at the first examination. The ship had been made lighter and work was still going on to take out more cargo.

In answer to direct interrogatory Number 12 he saith:

At the time of the first examination two small steamers were occupied [763] in pulling the "Celtic Chief" off the reef. They were anchored in deeper water, moving their engines, but scarcely tightening the hawsers. At the second examination I do not remember positively whether a third steamer

(Deposition of Captain Hermann Schroeder.)

was connected with the "Celtic Chief," or was going to be connected. The ship's crew was engaged in connecting the ship with a weight or anchor lying behind the stern of the ship.

In answer to direct interrogatory Number 13 he saith:

I gave the advice to lighten the ship and put out an anchor astern for the purpose of keeping the "Celtic Chief" in her position; this was given at the first examination. I am not certain whether I gave it to the captain of the ship or the ship's agent, and whether I had it interpreted by my first lieutenant, as there were a number of men around us.

In answer to direct interrogatory Number 14 he saith:

Yes, the position had changed; the ship had come a little distance more on ground.

In answer to direct interrogatory Number 15 he saith:

The "Arcona" anchored near the "Celtic Chief" on the eighth of December at 12 o'clock.

In answer to direct interrogatory Number 16 he saith:

The "Arcona" anchored and by means of her steam launches and other boats and hemp and steel lines the big steel hawser of the "Celtic Chief" was brought on board of the "Arcona."

In answer to direct interrogatory Number 17 he saith:

She was laying before her port anchor and by means of the hawsers and engines had her poop di-

(Deposition of Captain Hermann Schroeder.)
rected towards the shore and the aft part of the "Celtic Chief."

In answer to direct interrogatory Number 18 he saith:

The "Arcona" only put out one anchor.

In answer to direct interrogatory Number 19 he saith:

About when I do not remember, whether this anchor was laid out at 12 o'clock or when I had to change my position.

In answer to direct interrogatory Number 20 he saith: [764]

It was used to hold the "Arcona" in a favorable position to enable her to pull the "Celtic Chief" off the reef.

In answer to direct interrogatory Number 21 he saith:

It was a "Hall" anchor, weighing 2,250 kilo. The size I do not know.

In answer to direct interrogatory Number 22 he saith:

The anchor was connected by a chain.

In answer to direct interrogatory Number 23 he saith:

The chain was heaved by an engine.

In answer to direct interrogatory Number 24 he saith:

At the first time with a hawser of 10 centimeters circumference, and at the second time by two hawsers 10 centimeters circumference.

In answer to direct interrogatory Number 25 he saith:

(Deposition of Captain Hermann Schroeder.)

The lines were all strong steel hawsers of the size already mentioned in No. 24, in a good condition. I cannot furnish a sample of them.

In answer to direct interrogatory Number 26 he saith:

There was one test made during the first attempt in pulling the "Celtic Chief" off. The test was made by heaving in the anchor chain until the line was taut and then moving the ship's engines with increasing speed. The result was the line snapped at revolutions for eight knots speed.

In answer to direct interrogatory Number 27 he saith:

The first time they were made fast from 12 to 2 o'clock in the afternoon. The second time from about 3 o'clock until 6 o'clock in the afternoon.

In answer to direct interrogatory Number 28 he saith:

The lines were kept fast from 6 o'clock in the afternoon until the "Celtic Chief" was floated.

In answer to direct interrogatory Number 29 he saith:

Yes, by means of two steel hawsers. [765]

In answer to direct interrogatory Number 30 he saith:

Yes. The strain exerted upon the hawsers was given by the capstan engines heaving in the anchor chain of the "Arcona." I don't know how much engine power was exerted upon the lines. I know only that the hawsers were kept taut the whole time by that heaving in.

(Deposition of Captain Hermann Schroeder.)

In answer to direct interrogatory Number 31 he saith:

They were kept taut.

In answer to direct interrogatory Number 32 he saith:

The anchor held fast.

In answer to direct interrogatory Number 33 he saith:

There were three little steamers.

In answer to direct interrogatory Number 34 he saith:

At first when I arrived with the "Arcona" I saw the steamers going full speed ahead. Then they decreased their speed until the "Arcona" herself moved her engines. At that time they went full speed. During the latter part of the afternoon I do not remember what efforts the steamers made. During the night I do not know what they did.

In answer to direct interrogatory Number 35 he saith:

Sometimes they were kept taut and sometimes not, during the night I only saw them at intervals.

In answer to direct interrogatory Number 36 he saith:

I did not see anything else.

In answer to direct interrogatory Number 36a he saith:

During the three hours immediately preceding the floating of the "Celtic Chief" the steel hawsers which connected the "Arcona" with the "Celtic Chief" were taut by means of heaving in the ship's anchor. When the "Celtic Chief" was floated the "Arcona's"

(Deposition of Captain Hermann Schroeder.)

anchor was weighed and the engines moved full speed ahead in order to avoid the "Celtic Chief" which came down from the ground with rather much speed.

[766]

In answer to direct interrogatory Number 37 he saith:

Without any further questions I do not remember whether there has anything else been done by the "Arcona."

In answer to direct interrogatory Number 38 he saith:

The cause of the floating of the "Celtic Chief," in my opinion was the fact that the "Celtic Chief" was kept in her position by the steel hawsers of the "Arcona" while she was lightened and raised by the tide, and that when she was loosely on the ground she was pulled forward by both the heaving in of the chain of the "Arcona," and the heaving in of the anchor laid out by the "Celtic Chief." Naturally, in the last stage of the floating of the "Celtic Chief" also the engine power of the steamers came to be of effect; for they were well able to tug the floating ship, but were not able to pull the ship while on the ground. That the tugs were not able to do anything I judge from the fact that the "Celtic Chief" had come more on ground while they were there during the preceding days, when they had been to her assistance. [767]

Cross-examination.

In answer to cross-interrogatory Number 1 he saith:

From the official record-books of the German Navy.

In answer to cross-interrogatory Number 2 he saith:

I don't remember quite well whether the first ex-

(Deposition of Captain Hermann Schroeder.)

amination was requested by the British Consul or the shipping agent. But the second examination was requested personally by the British Consul to me, on the same day.

In answer to cross-interrogatory Number 3 he saith:

It was made to me personally.

In answer to cross-interrogatory Number 4 he saith:

On the seventh of December on board of the "Arcona" by the British Consul.

In answer to cross-interrogatory Number 5 he saith:

I think I was alone with the British Consul, but it may be that the First Lieutenant of the "Arcona" was present.

In answer to cross-interrogatory Number 6 he saith:

My answers are based upon my own personal observations.

In answer to cross-interrogatory Number 7 he saith:

The first examination I made on the seventh of December at about 9 o'clock in the morning; and the second examination at about 9 o'clock on the eighth of December, 1909.

In answer to cross-interrogatory Number 8 he saith:

On the first examination I ordered the depth to be sounded around the "Celtic Chief," besides that I took the bearings of the ship and controlled the movements of the ship in order to find out with what parts of her bottom she was on the reef, better on the ground. Besides that I asked the Captain of the ship what draught the ship had, how much cargo and what kind, and what had been done by the captain since the ship run aground.

In answer to cross-interrogatory Number 9 he saith:

(Deposition of Captain Hermann Schroeder.)

The ship was on ground for the whole length of her bottom, but [768] only in the aft part so firmly that it could not be raised by the swell. While the fore part was moved a little to both sides by the higher swell. The depths were aft, amidships and the fore-part 19, 18 and 16 feet, respectively. The draught of the ship according to the captain's statement was 24 feet aft, and 20 feet in the fore part. At that time I doubted the accuracy of the captain's statement because the ship had to stick one meter in the hard bottom, which was not probable. The second examination was a more superficial one, I do not remember if soundings were taken. But the circumstances were about the same as before on the preceding day.

In answer to cross-interrogatory Number 10 he saith:

The first lieutenant, Mr. Connemann, then the navigating officer, Capt. Lieutenant Albrecht, and an agent of the ship's company, but I don't know whether he was from the ship's owner or cargo owner's.

In answer to cross-interrogatory Number 11 he saith:

Soundings were taken by the navigating officer. The dates of the ship's draught and the cargo were given to me by the captain. Everything else is based upon my own personal observations and conclusions. In answer to cross-interrogatory Number 12 he saith:

They were given in the morning of the seventh of December about ten o'clock.

(Deposition of Captain Hermann Schroeder.)

In answer to cross-interrogatory Number 13 he saith:

Present were the company's agent, the captain, my first lieutenant, the pilot and perhaps my navigating officer, but I do not know if all these persons have heard my advices.

In answer to cross-interrogatory Number 14 he saith:

The observation was made by me and the first lieutenant and perhaps the navigating officer from board of the "Arcona," and consisted in bearing the ship "Celtic Chief" in the elongation of a supposed line given by two fixed points. The "Arcona" was tied to a pier. [769]

In answer to cross-interrogatory Number 15 he saith:

I made them myself.

In answer to cross-interrogatory Number 16 he saith:

I do not remember.

In answer to cross-interrogatory Number 17 he saith:

She anchored outside of the "Celtic Chief" in deep water with one anchor and hauled the aft part of the ship as near as possible to the aft part of the "Celtic Chief."

In answer to cross-interrogatory Number 18 he saith:

As much as I remember the "Arcona" had laid out her anchor about 100 meters, and the chain showed two points to the left of the bow of the "Arcona."

In answer to cross-interrogatory Number 19 he saith:

(Deposition of Captain Hermann Schroeder.)

No, the direction of the ship was almost the same, but the distance decreased by heaving in the chain.

In answer to cross-interrogatory Number 20 he saith:

I don't remember.

In answer to cross-interrogatory Number 21 he saith:

It is not my duty to examine the hawser at all, until I see them brought out. I make no special examination.

In answer to cross-interrogatory Number 22 he saith:

By looking at them.

In answer to cross-interrogatory Number 23 he saith:

They had been used before, but I do not know how often. They were in good condition.

In answer to cross-interrogatory Number 24 he saith:

No sample given.

In answer to cross-interrogatory Number 25 he saith:

We have aboard the German war vessels hawsers galvanized with zink, so they do not get rusty. They have all the same appearance. The hawser of the "Celtic Chief" was of the same character.

In answer to cross-interrogatory Number 26 he saith:

No, there were only three steel hawsers on board.

[770]

In answer to cross-interrogatory Number 27 he saith:

(Deposition of Captain Hermann Schroeder.)

No, no sample was furnished.

In answer to cross-interrogatory Number 28 he saith:

I remember that the distance was about 200 meters.

In answer to cross-interrogatory Number 29 he saith:

She laid about in the line given by the masts of the "Celtic Chief."

In answer to cross-interrogatory Number 30 he saith:

The hawsers were about 200 meters long between the points where they were made fast; I do not remember where they were made fast, on board the "Celtic Chief," nor do I know how they were conducted with respect to the lines of the other ships.

In answer to cross-interrogatory Number 31 he saith:

I saw that the hawser snapped while the engines of the "Arcona" made revolutions for about 8 miles speed. That the engines made so many revolutions I saw on the indicator. Revolutions for 8 miles require about 800 horse-powers.

In answer to cross-interrogatory Number 32 he saith:

I was then at a place 25 meters further seaward from that place where the hawsers had been hauled taut at about 6 o'clock. I do not know how long time.

In answer to cross-interrogatory Number 33 he saith:

The pulling off could not be executed from the beginning until the floating of the "Celtic Chief," because the hawser snapped and had to be replaced.

(Deposition of Captain Hermann Schroeder.)

In answer to cross-interrogatory Number 34 he saith:

The last pulling began in the night of the eighth of December after the two lines had been fastened to the "Celtic Chief"; besides, the "Arcona" there were three steamers present.

In answer to cross-interrogatory Number 35 he saith:

I do not remember if a signal was given because the engines of the "Arcona" were not moved before the ship came off, but I remember that the steamers moved their engines with full [771] speed from about eleven o'clock.

In answer to cross-interrogatory Number 36 he saith:

I do not remember any more.

In answer to cross-interrogatory Number 37 he saith:

I don't remember any more. The signals were arranged by the first lieutenant.

In answer to cross-interrogatory Number 38 he saith:

I do not know.

In answer to cross-interrogatory Number 39 he saith:

I was off duty only during the pauses where there was nothing to be done.

In answer to cross-interrogatory Number 40 he saith:

The position of the "Arcona" I have described in answer to question No. 29, and the position was almost quite the same from the first moment to the last. The direction of each hawser after the floating I cannot describe.

(Deposition of Captain Hermann Schroeder.)

In answer to cross-interrogatory Number 41 he saith:

Most parts of my statements are based on my own observations, but of course I have not stood near the hawser for three hours, especially not at about 11 o'clock, when I went on board the "Celtic Chief." The observations that were not made by me were reported to me by my first lieutenant who made them personally.

In answer to cross-interrogatory Number 42 he saith:

Based on my own observations.

In answer to cross-interrogatory Number 43 he saith:

No, as I made all my official report myself. [772]

Second Cross-examination (X).

In answer to cross-interrogatory Number 1x he saith:

I made the first examination on the seventh of December at about 9 o'clock in the morning; the second one on the eighth of December at the same time of day.

At both examinations the first lieutenant and the navigating officer of the "Arcona," Captain Lieutenants Conneman and Albrecht were present. For the first examination I ordered the navigating officer to sound the depth of the water around the ship and to determine her position by bearings. I asked the captain of the "Celtic Chief" for details of the stranding, the draught of the ship, her cargo, and what had been done since the ship stranded.

In answer to cross-interrogatory Number 2x he saith:

I don't remember to have seen any steel cable extending out of the stern of the "Celtic Chief" during my first examination if not those by which the steamers had been fastened to the "Celtic Chief."

(Deposition of Captain Hermann Schroeder.)

Only when I came out with the "Arcona" I saw a big steel cable extending out of the stern of the ship and leading into the water where it was said to have been fastened to a seven ton stone or anchor.

In answer to cross-interrogatory Number 3x he saith:

Yes, but not to the evening of the eighth, but to the morning of the eighth of December.

In answer to cross-interrogatory Number 4x he saith:

There have arrangements and agreements been made by my First Lieutenant Connemann, but I don't remember the details of them.

In answer to cross-interrogatory Number 5x he saith:

I don't remember.

In answer to cross-interrogatory Number 6x he saith:

I don't remember the details of the signals.

In answer to cross-interrogatory Number 7x he saith:

I don't remember the details of the signals and the efforts [773] which the "Arcona" made immediately after the signals were given.

In answer to cross-interrogatory Number 8x he saith:

I was on board of the "Celtic Chief."

In answer to cross-interrogatory Number 9x he saith:

I don't know if that cable has moved the "Celtic Chief" before I came on board in that night. I cannot even say that it has moved the "Celtic Chief" at all, several strains being in action to pull off that ship, i. e., the hawsers of the "Arcona," the cables of the steamers and that steel cable leading to the seven ton weight.

In answer to cross-interrogatory Number 10x he saith:

I don't remember the meaning of all signals ar-

(Deposition of Captain Hermann Schroeder.)

ranged by the first lieutenant but it is an error to think that the "Arcona" did not start pulling before the signals were given. The "Arcona" was pulling all the time. It is only right that the "Celtic Chief" was moving seaward before signals were given.

In answer to cross-interrogatory Number 11x he saith:

I was on board the "Celtic Chief" when she began to move seaward, and stated the fact of moving by which were shown to me and the first lieutenant by the pilot, as much as I remember.

In answer to cross-interrogatory Number 12x he saith:

Yes, there were some shore lights by which the moving of the "Celtic Chief" could be determined.

In answer to cross-interrogatory Number 13x he saith:

I have had some experience in floating vessels, the details of which I don't remember any more.

In answer to cross-interrogatory Number 14x he saith:

Yes, the "Arcona" had the strain of her capstan engine continuously on her hawsers to the "Celtic Chief," by means of that engine the anchor was heaved in, as soon as the hawsers slackened.

In answer to cross-interrogatory Number 15x he saith:

My eyes served as means of observation. At about eleven [774] o'clock in the evening I controlled once again personally the state and condition of the hawsers on board the "Arcona." Saw them to be quite taut and ordered them to be kept so further

(Deposition of Captain Hermann Schroeder.)

on. Then in company of the first lieutenant I went on board the "Celtic Chief" and observed the hawsers from there. Observation could well be made in the light of the "Arcona's" search-light. At last we controlled the condition and strain of the cable running to the seven ton anchor and looked out for the shore lights in order to determine the moving of the "Celtic Chief." When we had stated that the "Celtic Chief" was moving seaward I returned on board the "Arcona" as quick as possible, and ordered her anchor to be weighed. Meanwhile I got the signal from the "Celtic Chief" that she was floating.

In answer to cross-interrogatory Number 16x he saith:

Yes, there was an agreement between the first lieutenant and as much as I know, the officers of the "Celtic Chief," but I don't remember what signals they were. I remember only that one signal of the floating of the "Celtic Chief," this was given about at 11:30 P. M.

In answer to cross-interrogatory Number 17x he saith:

I do not remember how many signals were agreed upon, nor what they meant, except the last one.

In answer to cross-interrogatory Number 18x he saith:

Yes, that signal was arranged.

In answer to cross-interrogatory Number 19x he saith:

I don't remember this agreement.

In answer to cross-interrogatory Number 20x he saith:

(Deposition of Captain Hermann Schroeder.)

I do not remember.

In answer to cross-interrogatory Number 21x he saith:

I don't know any more. [775]

In answer to cross-interrogatory Number 22x he saith:

I don't remember.

In answer to cross-interrogatory Number 23x he saith:

I don't remember.

In answer to cross-interrogatory Number 24x he saith:

I have told everything I know in regard to the signals and the manner of carrying out the order. I don't remember anything more.

In answer to cross-interrogatory Number 25x he saith:

I don't remember.

1/2 (Signed in German characters.) [776]

United States of America,
Territory of Hawaii,—ss.

I, James C. McNally, Commissioner of the District Court of the United States for the Territory of Hawaii, named in the *dedimus potestatem* hereto annexed, do hereby certify that on the twenty-sixth day of September, 1910, at Tsingtau, Kiaochow, China, I was attended by the witness Hermann Schroeder, the person named in said *dedimus potestatem*, and the said witness, having been by me first sworn to testify the truth, the whole truth and nothing but the truth in the within entitled cause, gave his testimony in response to the interrogatories annexed to said *dedi-*

mus potestatem, the same having been by me propounded to said witness in the manner in said *dedimus potestatem* directed, which was reduced to writing under my supervision in the English language, the said witness having replied to said interrogatories in the English language, and the said testimony so given and reduced to writing was thereafter signed by said witness.

I do further certify that the said testimony was taken in all respects in accordance with the said *dedimus potestatem*.

I do further certify that I am not of counsel nor attorney for any of the parties in the said *dedimus potestatem* named, nor in any way interested in the event of the cause named therein.

IN TESTIMONY WHEREOF I have hereunto set my hand and seal this twenty-ninth day of September, 1910.

[Seal] (Sgd.) JAMES C. McNALLY,
Consul of the United States of America.

[Endorsed]: No. 116. Deposition of Hermann Schroeder. Filed Dec. 28, 1911. [777]

[Title of Court and Cause—Nos. 115, 116, 117.]

**Direct Interrogatories to be Propounded to Kapitaen
Leutnant Felix Maria Connemann. [788]**

1. State your name, occupation and present position in your profession.
2. How long have you been in the German navy?
3. State fully what training you have had in navigation and maritime matters.

4. Are you acquainted with the German cruiser "Arcona"?
5. What was your position on the said "Arcona" while she was in the port of Honolulu in the month of December, 1909?
6. Do you know the tonnage and horse-power of the said "Arcona"? If so, state the same.
7. What donkey-engines, winches, tackles, anchors and hawsers did the "Arcona" have while so in the port of Honolulu? If any, describe the same fully as far as you can of your own knowledge.
8. Are you acquainted with the British ship named the "Celtic Chief" that was stranded in the harbor of Honolulu, in the Territory of Hawaii, from the 6th day of December, 1909, to the 9th day of December, 1909?
9. State whether or not the said "Arcona" had anything to do with the said "Celtic Chief" while so stranded. If so, what led up to the same? [789]
10. If you answer the first part of the last interrogatory in the affirmative, state what was done by the said "Arcona."
11. State whether or not you, or any other officer of the said "Arcona," if you know, examined the said "Celtic Chief," her position and condition while so stranded, and if so, when such examination was made. If you made such examination, state what you found.
12. What assistance, if any, was being rendered to your knowledge to said "Celtic Chief" at

the time of such examination?

13. What advice, if any, for the relief of the said "Celtic Chief" was given by you or in your hearing by any other officer of the said "Arcona" to the said "Celtic Chief" or those or anyone in charge of her and to whom was the same given?
14. State whether or not the said "Celtic Chief" changed her position from the 7th of December, 1909, to the early morning of the 8th of December, 1909, and if so, what such change consisted of.
15. When, if at all, did the said "Arcona" go to the assistance of the said "Celtic Chief"?
16. What did the said "Arcona" do upon her arrival at the scene of stranding of the said "Celtic Chief"?
17. Describe the position taken by the said "Arcona." [790]
18. State whether or not the said "Arcona" laid out any anchors in connection with her operations for the relief of the said "Celtic Chief."
19. When were such anchors or anchor laid?
20. What use was made of such anchors or anchor?
21. Do you know the kind, size and weight of such anchors or anchor? If so, state the same fully.
22. How, if at all, were such anchors or anchor connected with said "Arcona"?
23. If you shall have testified that chains or a chain connecting such anchors or anchor with said "Arcona" were heaved in, state what means

were used for the purpose of heaving in such chains or chain.

24. How, if at all, was said "Arcona" connected with or made fast to said "Celtic Chief"?
25. If you shall have testified that the said "Arcona" was connected with said "Celtic Chief" by a line or lines, describe fully, if you know, the line or lines so used by the said "Arcona," stating in particular the size, condition and character thereof. Furnish, if you can, a sample piece of the line or each of the lines so used by the said "Arcona." [791]
26. State, if you can of your own knowledge, whether or not any test of the strength of any line so used by the said "Arcona" was made during her operations in connection with said "Celtic Chief." If so, what was the test, and what was the result thereof?
27. If you shall have testified that a line or lines were made fast from the said "Arcona" to the said "Celtic Chief," when were they made fast, giving as nearly as possible the precise times of day.
28. During what period or periods of time were such lines or line kept fast from said "Arcona" to said "Celtic Chief"?
29. State whether or not the said "Arcona" was made fast to the said "Celtic Chief" at the time of the floating of the said "Celtic Chief." If so, how?
30. Do you know whether or not any power or strain was exerted upon said lines during

the time that each was kept fast from said "Arcona" to said "Celtic Chief"? If so, do you know how much? If so, state how much and what variations, if any, there were from time to time.

31. State whether or not during the period or periods that said "Arcona" was kept fast to the said "Celtic Chief" the said line or lines were kept taut or otherwise. [792]

32. If you shall have testified that an anchor or anchors were laid by and connected with said "Arcona," state whether or not such anchor or anchors after being laid held fast during the said "Arcona's" operations in attempting to render assistance to said "Celtic Chief."

33. State what agencies besides the said "Arcona" were attempting to render assistance to said "Celtic Chief" from the time that said "Arcona" arrived at the scene of stranding of said "Celtic Chief" until the floating of said "Celtic Chief."

34. Relate fully what, as far as you observed, said agencies did during said last mentioned period of time in attempting to render assistance to said "Celtic Chief."

35. State, if you know of your own knowledge, whether or not during said last mentioned period of time, the lines by which the said last mentioned agencies were kept fast to said "Celtic Chief" were kept taut or otherwise.

36. State what said agencies other than said "Ar-

cona" did, as far as you observed, in attempting to render assistance to said "Celtic Chief."

36a. Relate fully and in detail everything that was done to your knowledge by the said "Arcona" in connection with her attempt to render assistance to said "Celtic Chief" at the time of floating of the said "Celtic Chief" and during the three hours immediately preceding said floating. [793]

37. Relate fully and in detail everything that was done, to your own knowledge, by the said "Arcona" in connection with her attempt to render assistance to said "Celtic Chief" that has not already been testified to by you in answer to the foregoing interrogatories.

38. What, in your opinion, was the cause of the floating of the "Celtic Chief," stating upon what you base your opinion, including your own experience in salving vessels, in maritime matters and in navigation, as well as your knowledge of the facts?

[Endorsed]: No. 116. Direct Interrogatories to be Propounded to Kapitaen Leutnant Felix Conemann. Filed July 2, 1910. [794]

[Title of Court and Cause—Nos. 115, 116, 117.]

**Cross-interrogatories to be Propounded to Kapitaeu
Leutnant Felix Maria Connemann on Behalf of
Libellants Inter-Island Steam Navigation Com-
pany, Limited, and Matson Navigation Com-
pany. [799]**

1. If in reply to direct interrogatory No. 6, you have stated that you know the tonnage and horse-power of the "Arcona," and have also stated such tonnage and horse-power, state the source of your information on these matters, and upon what you base your answer.
2. If in reply to direct interrogatory No. 9, you have stated that the assistance of the "Arcona" was requested by the "Celtic Chief," state how you know such to have been the case; also whether such request was made to you in person or to some other person in your presence.
3. If made to some person other than yourself, state to whom it was made.
4. When, where, and by whom was the request made?
5. What persons other than those you have mentioned were present?
6. If you have answered the first part of direct interrogatory No. 9 in the affirmative, and have also in answer thereto or to direct interrogatory No. 10, stated what was done by the "Arcona" in connection with the stranded "Celtic Chief," state how far your

answer is based upon your own personal observation, and what facts are stated upon information received by you from others.

7. If in reply to direct interrogatory No. 11 you have stated that you personally examined the position and condition of the "Celtic Chief," state when you made such examination, giving the date and hour. [800]
8. How did you proceed with such examination?
9. Of what did it consist?
10. Who were present?
11. What part or parts of your findings or conclusions, if any, were based upon the observation or examination by others and reported to or learned by you?
12. If in reply to direct interrogatory No. 13 you have stated that advice was given by you or by some other officer of the "Arcona" to the "Celtic Chief," state where and when such advice was given, giving the date and hour.
13. Who were present at that time, and under what circumstances was the advice given?
14. If in reply to direct interrogatory No. 14 you have stated that the "Celtic Chief" moved toward the land between December 7, 1909, and the early morning of December 8, 1909, state what observations were made to determine this, from what place, and by whom.
15. If such observations were made by anyone other than yourself, how did you learn of them?
16. What bearings did you have, giving their relative positions with respect to your position

and the "Celtic Chief" and the approximate distance between these several points?
[801]

17. What position was assumed by the "Arcona" in attempting to render assistance to the "Celtic Chief"?
18. If you have answered direct interrogatory No. 18 in the affirmative, and further answered direct interrogatories Nos. 19, 20, 21 and 22, or any of them, describe further: How far ahead of the "Arcona" each anchor was laid, and in what direction or position with respect to the "Arcona" were they after she assumed her final position?
19. Did she maintain such position and distance until the "Celtic Chief" was floated?
20. If in reply to direct interrogatory No. 23, or to any preceding interrogatory, you have stated that the chains connected with the anchors of the "Arcona" were heaved in by the use of winches, state what horsepower was exerted by each of such winches.
21. If in reply to direct interrogatory No. 25 you have described the lines connecting the "Arcona" with the "Celtic Chief," state when you first examined them.
22. Of what did your examination consist?
23. Had these lines been used before, and if so, how many times?
24. If you have furnished a sample, state from what part of the line the sample was cut. [802]
25. Are not all lines of this size and character identical in appearance?

26. Did you have other lines aboard of the same size and general appearance?
27. Can you swear positively that the sample furnished is a part of the particular line used, after so many months have elapsed since you were in Honolulu?
28. If in reply to direct interrogatories Nos. 24 and 25, or either of them, you have said that the "Arcona" was connected with the "Celtic Chief" by a line or lines, please describe further the distance of the stern of the "Arcona" from the "Celtic Chief."
29. In what precise position did the "Arcona" lie with respect to the "Celtic Chief"?
30. What was the length of each line between the points of their connection to, and where was each of the lines of the "Arcona" made fast to the "Celtic Chief," stating also whether such lines lay over or under or crossed the lines of other assisting vessels and the point and manner of crossing in each case.
31. If in reply to direct interrogatory No. 26 you have stated that a test of the strength of any line or lines connecting the "Arcona" with the "Celtic Chief" was made by straining thereon, and that as a result of such strain any such lines or lines parted, state whether or not you know, of your [803] personal knowledge, how much power was being exerted when the line so parted, and what is the source of your knowledge.
32. Where were you when the "Celtic Chief" was

floated, and for how long had you been there?

33. State whether the pulling done by the "Arcona" was continuous from the time she first began until the "Celtic Chief" was floated or whether there were cessations at times.
34. If the pulling was not continuous from first to last, state the date and hour when the final pull was begun, and whether the "Arcona" then pulled alone or in concert with other assisting vessels.
35. State whether such final pulling by the "Arcona" was begun in response to any signal given for the purpose, and if so, when and how and by whom such signal was given.
36. What was the arrangement, if any, as to giving signals to the vessels rendering assistance to the "Celtic Chief"?
37. Was more than one signal to be given; if so, how many and what were they?
38. How long an interval was there between the various signals?
39. From the time the "Arcona's" lines were first made fast to the "Celtic Chief" up to the time the "Celtic Chief" was floated, state the time or times you were on duty and the time or times you were off duty. [804]
40. From the time the "Arcona's" lines were first made fast to the "Celtic Chief" up to the time the "Celtic Chief" was floated, describe the relative positions of the "Arcona" and the "Celtic Chief," and in what

direction each was headed just after the "Celtic Chief" was floated.

41. Referring to your answer to direct interrogatory No. 36a, state whether or not any part of the same relates to matters not done or observed by you in person, but is based upon reports made to you by your junior officers, or others, indicating what part or parts are stated upon such information.
42. Referring to your answer to direct interrogatory No. 37, state whether or not any part of the same relates to matters not done or observed by you in person, but is based upon reports made to you by your junior officers, or others, indicating what part or parts are stated upon such information.
43. Has your information regarding any of the matters concerning which you have testified been derived from or assisted by a reading of any official reports of the occurrence?

[Endorsed]: No. 116. Cross-interrogatories to be Propounded to Kapitaen Leutnant Felix Maria Connemann on Behalf of I. I. S. N. Co., Ltd., & Matson Navigation Co. Filed Jul. 9, 1910. [805]

[Title of Court and Cause—Nos. 115, 116, 117.]

**Cross-interrogatories to be Propounded to Kapitaen
Leutnant Felix Maria Connemann.**

1. If, in answer to the twelfth interrogatory, you made such examination, state what day and time of day you made the examination and who were present with you, stating the par-

particulars of what you did in order to make the examination.

2. At the time you made your examination, did not the Miller Salvage Co., under the direction of Captain Miller, have a steel cable extending out astern of the "Celtic Chief" to a mooring the shore end of which was spliced to a hawser extending aboard the "Celtic Chief" and rigged to purchase tackles on the deck of the "Celtic Chief"? [806]
3. Is it not a fact that the "Celtic Chief" was moving further on the reef up to the evening of December 8, 1909?
4. Is it not a fact that the officers of the "Arcona" had an agreement with the officers of the "Celtic Chief" that on the evening of Wednesday, December 8, 1909, signals were to be given from the "Celtic Chief" to the "Arcona" to indicate to the "Arcona" that the "Celtic Chief" was ready to have an effort made by the "Arcona" to pull her off the reef?
5. If you answer that signals were to be given, what were they and what was it agreed that each signal should indicate to the "Arcona"?
6. If you answer that signals were to be given to the "Arcona," was the "Arcona" pulling on the "Celtic Chief" before the first of such signals was given, and if so, what strain was on her lines to the "Arcona" just before the first signal given stating the appearance of the lines with regard to being

taut, and the position of such lines with regard to the surface of the sea?

7. If you answer that a signal was given from the "Celtic Chief" to the "Arcona," state what effect, if any, that first signal had on the effort of the "Arcona" to pull the "Celtic Chief" off the reef, stating what difference there was in the effort made by the "Arcona" and any other particulars describing what was done on board the "Arcona" in relation thereto immediately after the first signal as compared with what had been done before the first signal?
8. Where were you at the time the "Celtic Chief" first started to move seaward off the reef?
9. If you answer that you were on board the "Celtic Chief" when the "Celtic Chief" first started to move seaward, please state, if you know, whether the "Celtic Chief" was being moved by the steel cable of the Miller Salvage Co. running astern before you came on board. [807]
10. If you say that you were aboard the "Celtic Chief" just prior to her moving off the reef and that signals were to be given from the "Celtic Chief" to the "Arcona," please state, if you know, whether or not the "Celtic Chief" was being moved seaward before the signals were given from the "Celtic Chief" to the "Arcona" to start pulling.
11. If you answer that the "Celtic Chief" was moving seaward before the signals were given, please state what you know of your own

knowledge with regard to such fact.

12. Did you have, at that time, any ranges (shore lights or otherwise) by which you could determine the fact that the ship was moving seaward?
13. Have you ever had any experience in floating a vessel other than this one? If so, what experience have you had?
14. At the time that the "Celtic Chief" was floated and half an hour immediately prior thereto, did the "Arcona" have any strain on the lines from the "Arcona" to the "Celtic Chief," and if so, describe such strain as best you can and how long such strain continued?
15. If you answer that you knew of such facts, please state what means of observation you had during such half hour and what you were doing during that time.
16. Was there not an agreement between the officers of the "Arcona" and the officers of the "Celtic Chief" that signals should be given by some kind of fireworks, and if so, what were these signals if you know, and at what time were they given?
17. If you answer that you know what these signals were, was not one signal arranged as a signal for the "Arcona" to begin pulling on the "Celtic Chief," and was not another signal arranged which would indicate to the "Arcona" that the "Celtic Chief" was moving seaward? [808]
18. Was not another signal arranged to indicate to

the "Arcona" that the "Celtic Chief" was floating?

19. Was there not a time agreed upon by the officers of the "Arcona" and the "Celtic Chief" when the "Arcona" should be expected to be prepared to pull on the "Celtic Chief"?
20. If you answer in the affirmative, was not this time agreed upon the time of high tide on that night?
21. If so, what was the time in hours and minutes, if you know?
22. Were these signals as agreed upon given and, if so, when they were given were they not given so close together that there was a very small interval of time between them?
23. If you answer that there was a very small interval of time between the signals, were not these signals given so close together as to give you the impression as being practically a continuous set of signals?
24. If the foregoing do not state the facts in regard to the signals arranged and the method of carrying out the orders, tell all you know with regard to the signals arranged and the method of carrying out the orders.
25. How long was it before the first and the last signal, if you know?

Honolulu, T. H., July 9th, 1910.

[Endorsed]: No. 116. Cross-interrogatories to be Propounded to Capitaen Lieutenant Felix Maria Connemann by the Miller Salvage Co., Libellant. Filed July 9th, 1910. [809]

United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIM-
ITED, an Hawaiian Corporation, Owner of the Steamers
"HELENE," "MIKAHALA," "LIKELIKE," and
"MAUNA KEA," for Itself, the Officers and Crews of
Said Steamers and Other Servants of Said Owners,
Appellee,

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant, Thereof,
Appellants,

vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,
Appellee,
and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

MATSON NAVIGATION COMPANY, a California Corpora-
tion, Owner of the Tug "INTREPID," for Itself and the
Officers and Crew of Said Tug,

Appellee.

VOLUME II.
(Pages 417 to 832, Inclusive.)

Upon Appeals from the United States District Court
for the Territory of Hawaii.

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The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant, Thereof,
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and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
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VOLUME II.
(Pages 417 to 832, Inclusive.)

Upon Appeals from the United States District Court
for the Territory of Hawaii.

Deposition of Felix Maria Connemann. [810]

1. In answer to interrogatory No. 1 he saith:

My name is Felix Maria Connemann. I am Lieutenant Commander of the Imperial Navy and at present Navigating Officer of the battle-ship "Schleswig Holstein."

2. In answer to interrogatory No. 2 he saith:

Since April 4, 1893.

3. In answer to interrogatory No. 3 he saith:

During my service of 17 years I have been to sea almost continually and with but few interruptions. During this time I have served on battle-ships, cruisers and torpedo-boats, I have been for 3 years on sailer-rigged School-ships as well as for 1½ years on a survey ship. In addition I have been directing the exceedingly difficult landing operations at Swakopmund on the coast of South West Africa during the uprising of the Hereros, for about six months during 1904, when the landing quai of that place had been filled up by sand.

4. In answer to interrogatory No. 4 he saith:

Yes.

5. In answer to interrogatory No. 5 he saith:

I was first officer during that time.

6. In answer to interrogatory No. 6 he saith:

The HP. of the "Arkona" is 8200, the ship's tonnage 2,800.

7. In answer to interrogatory No. 7 he saith:

One anchor winch, 2 winches, various heavy cables, 3 anchors of 2 to 3 tons each with 625 meters chain, various steel cables among them one of 10 centimeters. The strain of the anchor-chain and steel line I cannot remember at present. However,

(Deposition of Felix Maria Connemann.)

I am going to state them later from official records

8. In answer to interrogatory No. 8 he saith:

Yes. [811]

9. In answer to interrogatory No. 9 he saith:

Yes, on account of the stranding of the "Celtic Chief." The British Consul asked for the "Arkona's assistance.

10. In answer to interrogatory No. 10 he saith:

The "Arkona" DID pull off the "Celtic Chief"; this is obvious from the report made by the commander and myself on December 28, 1909, which should be in the hands of the Court.

11. In answer to interrogatory No. 11 he saith:

The position and condition of the "Celtic Chief" were examined by the Commander of the "Arkona" by the navigating officer and by myself personally. The first examination was made in the morning of December 7th, 1909, and it was repeated in the morning of December 8th, 1909. I have observed the position of the ship personally in the morning of December 7, 1909, as well as in the morning of December 8, 1909, and it was exactly as stated in the above-mentioned report, dated December 28th, 1909. My own perceptions and observations in detail were:

(1) Soundings made by our men at part of which I assisted in person.

(2) That the steamers which stood by the "Celtic Chief" and designed as a. and b. in the above-mentioned report of December 28, '09, were at that time NOT able to hold the "Celtic Chief" or to prohibit her from going further on to the reef. This was caused by the fact that the steamers were unable to

(Deposition of Felix Maria Connemann.)

keep their towing lines taut continually and in consequence the "Celtic Chief" was driven further on to the reef during the night from December 7th, 1909, to December 8th, 1909. [812]

12. In answer to interrogatory No. 12 he saith:

During the first examination 2 small steamers with apparently small power were trying to pull the ship off without success. When the second examination was made another small towing steamer had joined them.

13. In answer to interrogatory No. 13 he saith:

In my presence the Commander of the "Arkona" gave to the ship's agent the advice to instruct the Captain of the "Celtic Chief" to place a stern anchor as soon as possible and above all to lighter the ship astern as soon as this anchor had been placed.

14. In answer to interrogatory No. 14 he saith:

The "Celtic Chief" was driven further on to the reef during the night from December 7th, 1909, to December 8th, 1909. This observation I have personally made in the following manner:

The previous evening I had taken double deck bearings on shore and had marked down the position of the "Celtic Chief" according to these bearings; as the objects of my bearings, a house and a solid pile were stationary and as the ship had moved toward shore out of my bearings the next morning, she must have moved further on to the reef.

15. In answer to interrogatories No. 15 he saith:

During the afternoon of December 8th, 1909.

16. In answer to interrogatory No. 16 he saith:

The "Arkona" anchored near the "Celtic Chief"

(Deposition of Felix Maria Connemann.)

and took a position for towing.

17. In answer to interrogatory No. 17 he saith:

The "Arkona's" position can be seen on the sketch furnished with above-mentioned report of the Commander of the "Arkona" dated December 28, 1909.
[813]

18. In answer to interrogatory No. 18 he saith:

Yes; an anchor was laid.

19. In answer to interrogatory No. 19 he saith:

After arrival at the place where the "Celtic Chief" was stranded.

20. In answer to interrogatory No. 20 he saith:

To assist in and to carry out the salvage operations.

21. In answer to interrogatory No. 21 he saith:

It was a stockless Patent Anchor, "Inglefield" or "Hall," of 2 to 3 tons in weight.

22. In answer to interrogatory No. 22 he saith:

This anchor was connected with the "Arkona" by means of an anchor-chain.

23. In answer to interrogatory No. 23 he saith:

The chain was heaved in by steam power furnished by the capstan of the "Arkona."

24. In answer to interrogatory No. 24 he saith:

During the afternoon of December 8th, 1909, by one steel cable and in the evening of the same day by two steel cables.

25. In answer to interrogatory No. 25 he saith:

Two steel lines of about 10 centimeters were used during the pulling. One of these was the property of the "Celtic Chief" while the other belonged to the "Arkona." The "Arkona's" line was in very

(Deposition of Felix Maria Connemann.)

good condition, had been used very little and was to my knowledge less than two years in use. A sample of the line cannot be furnished as it has since been handed over to the Imperial Navy Yard. [814]

26. In answer to interrogatory No. 26 he saith:

Only one steel line that one furnished by the "Celtic Chief" was tested as to its strength, by slowly increasing the revolutions of the "Arkona's" engines. The final result was that the line could not stand the strain and broke. Here I would like to mention that the steel line of the "Celtic Chief" was not in as good a condition as that of the "Arkona."

27. In answer to interrogatory No. 27 he saith:

The first towing-line was made fast between 12 o'clock noon and 3 P. M. and broke at about 3 o'clock during the trial, was repaired again and paid out together with the "Arkona's" steel hawser and made fast during the time up to about 6 o'clock P. M.

28. In answer to interrogatory No. 28 he saith:

From the moment they had been made fast until the "Celtic Chief" was floated.

29. In answer to interrogatory No. 29 he saith:

Yes, the above-mentioned two steel hawsers.

30. In answer to interrogatory No. 30 he saith:

Yes, upon the line first made fast a slowly increasing strain was exerted by the working of the "Arkona's" machinery, until the line broke. After paying out the first line again and making it fast at the same time with the second line, a continuous strain was exerted on both by heaving in the anchor chain of the "Arkona." This strain was further increased by the working of the "Arkona" in the swell. It is

(Deposition of Felix Maria Connemann.)

impossible to give this strain in figures.

31. In answer to interrogatory No. 31 he saith:

Yes, the lines were kept taut continuously. [815]

32. In answer to interrogatory No. 32 he saith:

The "Arkona's" anchor held fast well during the time.

33. In answer to interrogatory No. 33 he saith:

I refer to the report of the commander of the "Arkona," dated December 28th, 1909, which I have mentioned repeatedly.

34. In answer to interrogatory No. 34 he saith:

All I have noticed is, that the steamers made futile attempts to float the ship, as far as I could see. However, the heaving in of the line of the stern anchor placed by the "Celtic Chief" at our recommendation might have done good service.

35. In answer to interrogatory No. 35 he saith:

The lines of the boats standing by the "Celtic Chief" at that time were always kept taut.

36. In answer to interrogatory No. 36 he saith:

They made attempts to float her with their weak machinery but without result.

36a. In answer to interrogatory No. 36a he saith:

By heaving in the anchor chain the "Arkona's" steel lines were kept taut continuously during the three hours immediately preceding the floating of the "Celtic Chief."

37. In answer to interrogatory No. 37 he saith:

I refer to my preceding statement in this matter.

38. In answer to interrogatory No. 38 he saith:

The floating of the "Celtic Chief" was caused, in my opinion, through measures taken by the "Ar-

(Deposition of Felix Maria Connemann.)

kona," which consisted in the placing of the "Arkona's" anchor and in heaving in the "Arkona's" anchor chain continuously. Hereby the "Celtic Chief's" lines were kept taut at all times. As a result the latter ship had to follow the strain of the [816] taut cables and had to move seaward with the rising tide. The cable to the stern anchor, placed seaward by the "Celtic Chief," in compliance with instructions given by the "Arkona's" commander, was kept taut simultaneously with the heaving in of the "Arkona's" anchor chain, rendering assistance during this time. Further, I refer to the testimony I gave in answer to question 3.

1. In answer to cross-interrogatory No. 1 he saith:
Tonnage and horse-power of the "Arkona" are known to me from official statements.
2. In answer to cross-interrogatory No. 2 he saith:
The demand for assistance was made by the British Consul, at first to me personally in the absence of the "Arkona's" Commander. Later I was present when the Consul made the request upon the Commander of the "Arkona" himself.
3. In answer to cross-interrogatory No. 3 he saith:
I refer to my testimony to the preceding interrogatory.
4. In answer to cross-interrogatory No. 4 he saith:
The request for assistance was made by the British Consul in the evening of December 6th, 1909, on board the "Arkona."
5. In answer to cross-interrogatory No. 5 he saith:
I do not remember; in one case the German Consul was present, as far as I can remember.

(Deposition of Felix Maria Connemann.)

6. In answer to cross-interrogatory No. 6 he saith:

The answer to this question is contained in the report of the "Arkona's" commander dated Dec. 28, 1909, to which I have frequently referred to before and which I have prepared jointly with the commander of the "Arkona." I have made these observations personally and jointly with the "Arkona's" Commander. I am the First Officer mentioned in this report. [817] Personally I have observed:

1. The soundings made by our men around the "Celtic Chief," part of which I have made myself.

2. That the steamers (a) and (b) mentioned in the report, were unable to hold the "Celtic Chief" for reasons set forth therein, we ourselves could observe this when we circled around the "Celtic Chief" and the steamers standing by her in our steam launch although the pilot aboard the "Celtic Chief" could not observe this from aboard the ship.

3. I have personally heard the advice given to the ship's agent by the commander, to place a stern anchor seaward from the "Celtic Chief" and to lighter her aft after that had been done.

4. I have personally made the observation that the ship was driven about 20 meters further on to the reef during the night from December 7th, 1909, to December 8th, 1909, in spite of the small steamers harnessed to her; this I observed in the following manner:

In the evening I had taken double deck bearings from shore and noted the ship's situation accordingly. As the two objects were stationary ashore and as the "Celtic Chief" had moved out of these bearings and

(Deposition of Felix Maria Connemann.)

toward shore the next morning she must have gone further on to the reef.

5. The maneuver of dropping the anchor and attaching the lines I have observed in the manner as stated in the commander's report of December 28, 1909.

6. I have personally taken care that the lines were kept good and taut during December 8, 1909, from 6:30 in the afternoon to 11 o'clock at night.

7. I have personally watched the various lines from aboard the "Celtic Chief" on December 8, 1909, from about 11 o'clock at [818] night on. I have seen that the "Arkona's" lines and the line connecting the "Celtic Chief" with the stern anchor, placed seaward, were taut, especially when the "Celtic Chief" and the "Arkona" were working in the swell, while this was not the case to the same degree with lines of the small steamers.

8. I know personally that the towlines between the "Arkona" and the "Celtic Chief" were kept taut to the breaking point on December 8th, 1909, at about 11 o'clock at night by heaving in the "Arkona's" anchor chain, as I have communicated the respective orders of the Commander of the "Arkona" by means of a megaphone from aboard the "Celtic Chief" to the "Arkona" and I have received a reply from there on every such occasion that the order had been complied with.

9. I have personally observed that the "Celtic Chief" seemed to be moving during the first heaving in of the "Arkona's" anchor chain, as far as this could be ascertained by means of bearings. I have

(Deposition of Felix Maria Connemann.)

further observed that the "Arkona's" lines and the lines to the stern anchor became slack all of a sudden right after something had been shouted from aboard the "Arkona."

10. Later on board the "Arkona" I was informed that this shouting took place during the time at which a strong jerk on the towing lines was noticed. This jerk I have not felt myself. Besides, I have not been able to personally observe that the "Arkona's" anchor did not drag, nor that the *boye* of the seven ton stern anchor placed seaward by the "Celtic Chief" had been moving astern. These observations were communicated to me aboard the "Arkona" right after my return aboard and they had been made by a large number of the "Arkona's" crew; this report was made to me by Lieutenant Schulten, as far as I can remember.

11. By personal observation and on account of my experience as a seafaring man I must say that I have gained the same opinion in regard to the value of the services rendered the "Celtic Chief" by the "Arkona" and by the small steamers respectively, as that given at the end of the report dated December 28, 1909, and made by the "Arkona's" Commander. [819]

7. In answer to cross-interrogatory No. 7 he saith:

In the morning of December 7, 1909, and in the morning of December 8th, 1909; the exact time I do not remember any more.

8. In answer to cross-interrogatory No. 8 he saith:

I again refer to the report of the "Arkona's" commander dated December 8th, 1909, to which I have

(Deposition of Felix Maria Connemann.)

repeatedly referred.

9. In answer to cross-interrogatory No. 9 he saith:

Of an examination of existing conditions and of a decision on plans to be carried out.

10. In answer to cross-interrogatory No. 10 he saith:

The persons mentioned in the report made by the "Arkona's" Commander on December 28, 1909.

11. In answer to cross-interrogatory No. 11 he saith:

I refer to my detailed testimony in reply to cross-interrogatory No. 6.

12. In answer to cross-interrogatory No. 12 he saith:

In the morning of December 7th, 1909; the exact time I cannot state any more.

13. In answer to cross-interrogatory No. 13 he saith:

To my knowledge the ship's agent, the captain and the "Celtic Chief's" pilot as well as several of our officers.

14. In answer to cross-interrogatory No. 14 he saith:

I refer to my testimony to cross-interrogatory No. 6. The observations were made by me by means of the same double-deck bearings as on the previous day.

15. In answer to cross-interrogatory No. 15 he saith:

The observations were made by me personally.

[820]

16. In answer to cross-interrogatory No. 16 he saith:

(Deposition of Felix Maria Connemann.)

I stood on shore. One of the two objects was a house on the opposite side of the harbour, the other a solid pile near the "Arkona's" berth.

17. In answer to cross-interrogatory No. 17 he saith:

The position as stated in the report of the "Arkona's" commander dated December 28, 1909.

18. In answer to cross-interrogatory No. 18 he saith:

As far as I remember, the "Arkona" was anchored with about 85 meters of chain; the chain ran to the right forward.

19. In answer to cross-interrogatory No. 19 he saith:

The anchor's position probably remained the same; the distance was *diminished* by heaving in the chain.

20. In answer to cross-interrogatory No. 20 he saith:

I cannot state the horse-power of the capstan.

21. In answer to cross-interrogatory No. 21 he saith:

I refer to my answer to interrogatory No. 26.

22. In answer to cross-interrogatory No. 22 he saith:

I refer to my answer to interrogatory No. 26.

23. In answer to cross-interrogatory No. 23 he saith:

I do not know how often the "Celtic Chief's" line had been used; the "Arkona's" line had been used but a few times as far as I know.

24. In answer to cross-interrogatory No. 24 he saith:

(Deposition of Felix Maria Connemann.)

A sample piece has not been furnished by me.

25. In answer to cross-interrogatory No. 25 he saith:

I do not know. [821]

26. In answer to cross-interrogatory No. 26 he saith:

No.

27. In answer to cross-interrogatory No. 27 he saith:

No sample piece has been furnished.

28. In answer to cross-interrogatory No. 28 he saith:

The distance between the "Arkona's" stern and the "Celtic Chief" was about 200 meters.

29. In answer to cross-interrogatory No. 29 he saith:

About in line with the "Celtic Chief's" keel.

30. In answer to cross-interrogatory No. 30 he saith:

The length of the lines between the points where they were fastened was a little over 200 meters. As far as I remember, one of the lines was fastened to the mizzenmast and the other one to the mainmast. The lines ran above the lines of the other ships; about the manner in which they were crossing I cannot make definite statements.

31. In answer to cross-interrogatory No. 31 he saith:

I cannot give the amount of strain exerted from personal observation. The 800 horse-power mentioned in the report are based upon a statement made by the engineer.

(Deposition of Felix Maria Connemann.)

32. In answer to cross-interrogatory No. 32 he saith:

Aboard the "Celtic Chief" from about 11 o'clock at night.

33. In answer to cross-interrogatory No. 33 he saith:

The "Arkona" continued to tow from 6:30 in the afternoon (which was the beginning of the final tow) without interruption until the floating of the "Celtic Chief." [822]

34. In answer to cross-interrogatory No. 34 he saith:

I refer to my answer to cross-interrogatory No. 33.

35. In answer to cross-interrogatory No. 35 he saith:

The "Arkona" did not begin towing the "Celtic Chief" off the reef in response to any given signal; she did so by verbal order. These orders were given directly, while the commander and I were still aboard the "Arkona" and later when we were aboard the "Celtic Chief" by calling out to the "Arkona." This was done by the commander or myself.

36. In answer to cross-interrogatory No. 36 he saith:

As far as I remember, the vessels were to begin towing with full power at a special signal and to cast off at another signal after the "Celtic Chief" had been floated.

37. In answer to cross-interrogatory No. 37 he saith:

I refer to the answer I have given to the preceding interrogatory. The signals were to consist of a

(Deposition of Felix Maria Connemann.)

number of signal stars which were to be fired off.

38. In answer to cross-interrogatory No. 38 he saith:

I cannot testify about this any more.

39. In answer to cross-interrogatory No. 39 he saith:

I had been on duty continually from the time the "Arkona" left port until the "Celtic Chief" had been floated and handed over, excepting during a short interval for lunch and dinner.

40. In answer to cross-interrogatory No. 40 he saith:

I refer to my answer to cross-interrogatory No. 29. The "Celtic Chief" ran aft toward the "Arkona's" stern after being floated.

41. In answer to cross-interrogatory No. 41 he saith:

I refer to my answer to cross-interrogatory No. 6.
[823]

42. In answer to cross-interrogatory No. 42 he saith:

I refer to the statements I have made heretofore.

43. In answer to cross-interrogatory No. 43 he saith:

My knowledge was gained by personal observation.

1x. In answer to cross-interrogatory No. 1x he saith:

I refer to my answer to interrogatory No. 11 and interrogatory No. 12.

2x. In answer to cross-interrogatory No. 2x he saith:

Neither during the first nor during the second ex-

(Deposition of Felix Maria Connemann.)

amination a stern anchor had been placed by the "Celtic Chief" in a seaward direction.

3x. In answer to cross-interrogatory No. 3x he saith:

Up to the time the "Arkona" took a part in the operations the "Celtic Chief" had been driven further and further on to the reef according to my own observation.

4x. In answer to cross-interrogatory No. 4x he saith:

The signals had been agreed upon at first, but finally were not given in the manner agreed upon, as it was proven during the evening that the orders could be transmitted verbally to much better advantage.

5x. In answer to cross-interrogatory No. 5x he saith:

I refer to my testimony to cross-interrogatory No. 37.

6x. In answer to cross-interrogatory No. 6x he saith:

The "Arkona" had been towing at the "Celtic Chief" before an optical signal was given. I cannot state in figures how large the strain was. The lines were kept taut continually. About the position of the lines I cannot testify on account of the then existing darkness. [824]

7x. In answer to cross-interrogatory No. 7x he saith:

I refer to my testimony in answer to cross-interrogatory No. 4x.

8x. In answer to cross-interrogatory No. 8x he saith:

(Deposition of Felix Maria Connemann.)

I was aboard the "Celtic Chief" at that time.

9x. In answer to cross-interrogatory No. 9x he saith:

I believe that the "Celtic Chief," when beginning to move seaward, was not moved by the steel line of the Miller Salvage Company.

10x. In answer to cross-interrogatory No. 10x he saith:

I believe that the "Celtic Chief" did not move before the "Arkona" began to pull. The towing operations of the "Arkona" were not conducted by means of optical signals but verbal acclamation.

11x. In answer to cross-interrogatory No. 11x he saith:

I refer to my answer to cross-interrogatory No. 10x.

12x. In answer to cross-interrogatory No. 12x he saith:

On account of the great distance it was very unsafe to use shore lights in taking bearings; the seaward movement of the "Celtic Chief" could be observed far better by the loosening of our towing lines after a stronger pull.

13x. In answer to cross-interrogatory No. 13x he saith:

I have not had special experience in the floating of ships except in this case. But the floating of the "Celtic Chief" was one of the simplest nautical maneuvers and one which every practical seafaring man should be able to execute.

14x. In answer to cross-interrogatory No. 14x he saith:

The "Arkona" had been towing at the "Celtic

(Deposition of Felix Maria Connemann.)

Chief" continually from 6:30 P. M. until she was floated. I cannot state in figures what the strain was.

[825]

15x. In answer to cross-interrogatory No. 15x he saith:

I refer to my answer to cross-interrogatory No. 6.

16x. In answer to cross-interrogatory No. 16x he saith:

I refer to my answer to cross-interrogatory No. 37.

17x. In answer to cross-interrogatory No. 17x he saith:

I refer to my answer to cross-interrogatory No. 37.

18x. In answer to cross-interrogatory No. 18x he saith:

Yes.

19x. In answer to cross-interrogatory No. 19x he saith:

A fixed time for the commencement of working the "Arkona's" engines had not been proposed except in case the floating of the "Celtic Chief" could not be accomplished by means of heaving in the "Arkona's" anchor chain. We did not need to resort to it as we succeeded in floating her in the manner last mentioned, before that time.

20x. In answer to cross-interrogatory No. 20x he saith:

Yes.

21x. In answer to cross-interrogatory No. 21x he saith:

To my knowledge about 1 A. M.

22x. In answer to cross-interrogatory No. 22x he saith:

(Deposition of Felix Maria Connemann.)

I refer to my answer to cross-interrogatory No. 4x.
23x. In answer to cross-interrogatory No. 23x he saith:

As I did not need to pay any attention to the signals on account of the established verbal communication between the "Arkona" and the "Celtic Chief," I cannot give exact testimony hereon. [826]

24x. In answer to cross-interrogatory No. 24x he saith:

I refer to my testimony to cross-interrogatory No. 4x.

25x. In answer to cross-interrogatory No. 25x he saith:

I am unable to testify to this.

Testimony of Lieutenant Commander Felix Maria Connemann. [827]

Empire of Germany,

State of Prussia,

County of Schleswig-Holstein,—ss.

I, Paul Sartori, United States Consular Agent at Kiel, Germany, Commissioner of the District Court of the United States for the Territory of Hawaii, named in the *dedimus potestatem* hereto annexed, do hereby certify that on the 10th day of September, 1910, at Kiel, Germany, I was attended by the witness Felix Maria Connemann, the person named in said *dedimus potestatem*, and the said witness, having been by me first sworn to testify the truth, the whole truth and nothing but the truth in the within entitled cause, gave his testimony in response to the interrogatories annexed to said *dedimus potestatem*, the same having been by me propounded to said witness

I do further certify that I am not of counsel nor attorney for any of the parties in the said *dedimus potestatem* named, nor in any way interested in the event of the cause named therein.

[Seal] (Sgd.) PAUL SARTORI,
United States Consular Agent at Kiel, Germany,
Commissioner.

[Endorsed]: No. 116. Translation of Deposition
of Felix Maria Connemann. Filed Dec. 29, 1911.
[828]

APPEARANCES:

Messrs. J. ALFRED MAGOON and P. L. WEAVER, of the firm of MAGOON & WEAVER, Proctors for Libellant, Miller Salvage Co.

Mr. L. J. WARREN of the firm of SMITH, WARREN & HEMENWAY, Proctors for Libellants,

Inter-Island Steam Navigation Co. and Matson Navigation Co.

Messrs. W. L. STANLEY and C. H. OLSON of the firm of HOLMES, STANLEY & OLSON, Proctors for Libellees.

Transcript of Testimony. [839]

[Testimony of Frank J. Loncke, for Libelant.]

Direct examination of FRANK J. LONCKE, a witness called on behalf of the Miller Salvage Co. and sworn.

Mr. WEAVER.—Q. What is your name?

A. Frank J. Loncke.

Q. Where—by whom were you employed, if at all, on December 5, 6, 7, and 8, 1909, the time when the “Celtic Chief” went ashore?

A. I was employed by the Miller Salvage Co.

Q. Do you know of your own knowledge anything about the stranding of the “Celtic Chief” near Honolulu Harbor, Oahu?

A. No, sir; only I know she was on when I came to work seven o’clock.

Q. Monday morning, seven o’clock what were you doing? A. I came down to work, sir.

Q. What were you doing? A. My position?

Q. What was your work?

A. Gas engineer, sir.

Q. What boat do you have, if any?

A. I had the launch “Elizabeth” at the time.

Q. How large a boat is that?

A. Thirty-six foot.

Q. What did you do with her?

A. I took Capt. Miller out to the “Celtic Chief.”

(Testimony of Frank J. Loncke.)

Q. When?

A. As soon as Capt. Miller come on, about half-past seven.

Q. Who else was aboard besides Capt. Miller?

A. I don't quite remember. Maybe somebody else.
I [845—1] generally carry a deck-hand with me.

Q. Tell what you did from that time.

A. Well, sir, after taking Capt. Miller aboard I laid to. When Capt. Miller came down I told him I had got—

Mr. OLSON.—I ask that the witness be instructed to talk slower so that the stenographer can take down what he says.

The COURT.—You may face a little bit more towards the stenographer and talk slower.

The WITNESS.—Well, after taking Capt. Miller aboard, I waited alongside the ship for him and after he came down, went back to the harbor.

Mr. OLSON.—Now, if the Court please, I move that all testimony, if the stenographer got it, as to the conversation between Capt. Miller and the witness be stricken.

Mr. WEAVER.—No objection.

The COURT.—So ordered.

Mr. WEAVER.—Q. You took Captain Miller aboard and you stayed there alongside and brought him back. How long were you there?

A. Capt. Miller remained there for about half an hour.

Q. And after that?

A. He came back to the launch.

Q. Where did you go?

(Testimony of Frank J. Loneke.)

A. To take him back to the harbor.

Q. What part of the harbor?

A. Foot of Fort Street.

Q. How long were you there?

A. Waited there until the steamer "Kaimilou" was ready to take out.

Q. About how long was that? [846—2]

A. That same afternoon.

Q. What is the "Kaimilou"?

A. The "Kaimilou," the schooner.

Q. You spoke of when the "Kaimilou" was ready to take out. What did you mean?

A. Take out alongside the "Celtic Chief" to discharge cargo.

Q. The "Kaimilou" is a schooner. What kind of schooner? A. Two-master.

Q. How big?

A. I should judge about 125 ton, as near as I can guess.

Q. When you went back with Capt. Miller to the wharf, where was the "Kaimilou"?

A. She was tied alongside the "Mokolii."

Q. What is the "Mokolii"?

A. The "Mokolii" is the great big scow used to be used by the Standard Oil Co.

Q. Was anything being done about the "Kaimilou" when you came back with Capt. Miller?

A. No. When I saw her there was a lot of men along there.

Q. While you were waiting there what was done, if anything?

A. Getting the schooner ready to receive cargo. It

(Testimony of Frank J. Loncke.)

was all I could do to tend to the launch.

Q. You saw men working?

A. Yes. There were men on board the "Kaimilou."

Q. You were waiting there?

A. I was waiting to tow alongside.

Q. Did you tow her out?

A. I towed her out, yes. Put her alongside the "Celtic Chief."

Q. Was there another schooner there or not, belonging to the Miller Salvage Company? [847—3]

A. Yes, there was. I believe the "Concord" was towed out there.

Q. And what was done about the "Concord"?

A. I said the "Concord" instead of the "Kaimilou." I made a mistake in the two schooners. They are both the same size.

Q. What's the size of the "Concord"?

A. About the same, 125 ton.

Q. What were they doing about the "Concord" when you came back to the wharf with Capt. Miller, if anything?

A. They were getting the "Concord" ready to take out.

Q. What was being done about the "Kaimilou"?

A. They didn't use the "Kaimilou."

Q. Was she used at all either Monday, Tuesday, or Wednesday? A. No, sir. That was my mistake.

Q. Then altogether, the "Kaimilou" is to be disregarded.

A. Left out, yes, sir. I made a mistake between the two.

(Testimony of Frank J. Loncke.)

Q. How many men did you see around there, this "Concord," when they were preparing to go out?

A. When I towed the "Concord" out there was about fifty men aboard her.

Q. And before that?

A. No, I only towed the "Concord" out.

Q. Was anybody around there at that time?

A. Yes.

Q. Was anybody about the "Concord"?

A. There was bound to be a foreman, Capt. Wisebar and Tom Mayson.

Q. Who else? A. Capt. Lewis.

Q. Any men on the "Concord"?

A. Lots of those stevedores.

Q. How many? A. About fifty. [848—4]

Q. They were working under Wisebar and Mayson? A. Yes, on the "Concord."

Q. Did you notice what they were doing, what kind of work?

A. Getting the ship ready to go out to the "Celtic Chief."

Q. Anything else you think of?

A. That's all I can think of. There is lots of work to get the vessel ready to go outside.

Q. And you went and towed her out?

A. Yes, I towed her out.

Q. And when you took the vessel out to the "Celtic Chief," what did you do with her?

A. Tied her up alongside the "Celtic Chief."

Q. Which side? A. On the port side.

Q. Where was the "Celtic Chief" when you tied up alongside?

(Testimony of Frank J. Loncke.)

A. She was headed in for the reef between Kalihi bay and the quarantine island.

Q. Between those points. And where was she in regard to the shore of Oahu?

A. She had Diamond Head on the starboard beam and Barber's Point on the port beam.

Q. How far off shore was she, if you know?

A. She was pretty close in shore because she was coming forward.

Q. Have you any idea in distance?

A. I couldn't very well say.

Q. Do you know anything about her position with regard to the soundings? A. No, sir.

Mr. OLSON.—I object to the question on the ground that the witness has not been qualified to answer.

The COURT.—He has answered, "No, sir."
[849—5]

Mr. WEAVER.—Q. What was the position of the "Celtic Chief" with regard to the shore?

A. She was stuck fore and aft. She was headed in right ashore.

Q. And stern to sea?

A. Stern to sea, yes, sir.

Q. Now, what was the angle that the length of the ship bore to the shore? The position, I mean by that. Was she parallel, diagonal, or at right angles?

A. Right here. Supposing this is her—

Mr. WEAVER.—Witness indicating a right-angle position to the shore.

Q. After you got out there was there any other company down after the "Celtic Chief"?

(Testimony of Frank J. Loncke.)

A. No, sir. I believe the Matson towboat was there. The "Intrepid" was there pulling on her.

Q. Well, what was the direction of the Matson towboat with regard to the fore and aft?

A. Pulling fore and aft.

Q. And any other boats there?

A. No, sir. That was the only boat the time I went aboard.

Q. What kind of a sea was there?

A. Just a moderate ground swell.

Q. What was the—did you observe anything about the action of the ship there?

A. Yes, sir. That she was working continually.

Q. What—will you explain fully, Mr. Loncke, what it means?

A. Why, the vessel was headed inshore and every time one of the largest swells hit her it would heave her stern up and she would have a tendency of going further ashore all the time. [850—6]

Q. Can you say how large these ground swells were from the highest point to the lowest point? Estimate. A. You know that's a pretty hard guess.

Mr. OLSON.—I object to the question on the ground it doesn't appear that the witness is qualified to answer.

The COURT.—We have had no evidence yet to show that he is a man that goes to sea.

Mr. WEAVER.—Q. How long have you—had you been to sea before this time you had the engine?

A. Yes. I have been to sea for about twelve years.

Q. Prior to that time? A. Yes.

(Testimony of Frank J. Loncke.)

Q. And while at sea what kind of work had you been doing?

A. I have been a sailor before the mast in deep water vessels.

Q. How many years?

A. Five years continually.

Q. After that?

A. After that I joined the United States Revenue Cutter Service.

Q. How long were you there?

A. About four years and a half. That's counting those twelve years.

Q. What were you doing there?

A. I was boatswain mate.

Q. And what were your duties?

A. Tend to the ship entirely, sir.

Q. Tend to the ship how?

A. See that the ship is kept in running order.

Q. Rigging and all? A. Rigging, yes, sir.

Q. And during these four and a half years, were you at sea or on shore?

A. At sea; up in Alaska. [851—7]

Q. During that time have you seen any small swells? A. And big swells too.

Q. And like those moderate swells? A. Yes.

Q. What constitute moderate swells?

A. Up Alaska we call a moderate swell just a swell, about two feet.

Q. What do you call a moderate swell around the Hawaiian Islands?

A. On the lee of the Island everybody knows when you come closer there is a swelling on the reef.

(Testimony of Frank J. Loncke.)

Q. What is the moderate swell? How high is it between the highest phase of the swell and the lowest phase?

A. I should judge about two feet to foot and a half.

Q. After this experience in the revenue cutter, where did you work?

A. I went on the United States Quarantine Station.

Q. What were you doing there?

A. I was deck-hand for Capt. Gray.

Q. How long were you there?

A. I was there for a year.

Q. And from there?

A. From there I went to work for Young Bros. I was operating a gasoline launch.

Q. You were there how long?

A. A year and a half.

Q. And where did you go from there?

A. From there I went to work for the Miller Salvage Co.

Q. Now, tell us how heavy that swell was, if you noticed, when you first went out to the "Celtic Chief."

A. You mean the height of the swell?

Q. Yes; anything to describe it.

A. I should judge about three foot, three foot and a half. [852—8]

Q. Have you observed the swells at the reefs on the lee side of Oahu? A. Yes.

Q. And what can you say—during the time you were here in Hawaii have you observed them?

A. Yes.

Q. And how long have you observed?

A. Well, I am at sea most every day.

(Testimony of Frank J. Loncke.)

Q. Around the shores in the lee side of Oahu?

A. Yes.

Q. I mean by that the Kona side, Honolulu. And how long have you been continuing in that position? Working right along?

A. Ever since I was working for the Young Bros. and the Quarantine Station.

Q. That's about three years? A. Yes, sir

Q. Now, what is the ordinary swell, what you call an ordinary swell. You say moderate swell. What is a moderate swell?

A. At times on the lee side of the Island you see the sea just as smooth as that table.

Q. At the reefs—when it is smooth as the table what is it like at the reefs?

A. Just about the same size. That is the pitch of the sea.

Q. And the moderate swell is the same; that is, between three and three and a half feet high from the lowest part of the wave?

A. That's what I should judge.

Q. You spoke of the time you first went to the boat. Will you speak of any swells you observed, if any, at that time?

A. Just about the same. When the sea goes down you [853—9] generally—the tide has a little heavier swell on it.

Q. The "Celtic Chief" went off Wednesday night. Have you observed the swell on the different nights?

A. Yes, sir. The swell was heavier the night she came off. Much heavier.

Q. Then you have spoken of Monday when you

(Testimony of Frank J. Loneke.)

went out with Capt. Miller, and Tuesday the swell was the same? A. Just about the same.

Q. And Wednesday what was the swell?

A. Yes, there was swell.

Q. Was there any large difference from the swell the night before?

A. A little heavier Wednesday than any other day.

Q. Was there any condition of weather you know of which would account for that? Do you remember anything about the winds at that time?

A. No, sir. I don't remember about the winds.

Q. Have you anything further to say in description of the kind of swell?

A. No, sir. Only it was heavier the night it was pulled off.

Q. Heavier than in daylight?

A. Heavier than any other day from the time she went on, sir.

Q. What was the size of the swell, if you know? Did you have any light or any marks of anything?

A. It's a hard thing to judge the height of the swell.

Q. At night did you have any means of observation? A. Only when I heard the vessel.

Q. Tell how you observed that it was a greater swell on Wednesday.

A. The vessel being headed in shore and the sea going right behind, when the swell hits the vessel counter and—[854—10]

Q. What is the counter?

A. The counter is the stern of the vessel, sir.

Q. And what happened on Wednesday about that, the sea in regard to the counter?

(Testimony of Frank J. Loncke.)

A. It was splashing against her.

Q. That was daylight?

A. No, sir; that was afternoon.

Q. What was the condition after nightfall?

A. About the same condition at night, sir.

Q. The sea sometimes breaking over the stern?

A. Swells are never the same size. Sometimes you get a swell, the next one may be larger and the third one may be larger still.

Q. Now, going back to Monday when you first observed that vessel that she was working, tell if you know any other changes in the working of the vessel.

A. Why, the vessel kept working further in that time on Monday.

Q. I understand you mean by working, working up and down? A. Yes; and working this way, in.

Q. The outside you observed this same condition?

A. I wasn't there much because I came in.

Q. You observed Monday? A. Monday, yes.

Q. And after Monday when did you next observe this vessel? A. That was Tuesday night.

Q. Daylight or night-time?

A. Just about sundown.

Q. And after that what did you observe about this vessel, if anything, working of the vessel?

A. After Tuesday she didn't seem to be going in there any more.

Q. Up to what—that was Tuesday night, nightfall?
[855—11] A. Just about sundown.

Q. And then after that night when did you observe the vessel next? A. Wednesday morning.

Q. How long after the sunrise? What time?

(Testimony of Frank J. Loncke.)

A. I was there at sunrise Wednesday morning.

Q. What did you observe then, if anything?

A. In regards to the ship?

Q. That is, in regards to the working of the vessel.

A. Well, they had several boats—

Q. I speak of the “Celtic Chief” working in the swells. What did you observe about that?

A. The ship was laboring all the time, sir. They was taking the cargo out of her, sir.

Q. What effect had that on the laboring?

A. Only drive her further in, sir.

Q. You spoke of this taking cargo out made the ship drive in, did it have any effect on the working of the vessel? How about the actions, rise and fall of the vessel?

A. Not any more than the swell would do.

Q. There was no change in that?

A. She was going in further along in spite of the boats pulling.

Q. What boats?

A. Some of the Island boats, sir.

Q. How many?

A. I don't remember of all. I remember the “Mauna Kea.”

Q. The number if you don't know the vessels?

A. I guess about three or four, I think.

Q. Going back to the first time that you took Capt. Miller out there to the vessel, returned him ashore and [856—12] took the “Concord” out.

A. Took the “Concord” out the first time.

Q. You took the “Concord” out the first time and waited for him. Go on.

(Testimony of Frank J. Loncke.)

A. I went back after tying the "Concord" alongside the "Celtic Chief." I went back and got the "Kaimilou." The "Kaimilou" was tied alongside and brought another big gang aboard. I put her on the starboard side of the "Celtic Chief" and then the gang went aboard her.

Mr. OLSON.—How do you spell that "Kaimilou"?

Mr. WEAVER.—K-a-i-m-i-l-o-a. By "Kaimilou" do you mean "Kaimiloa"?

A. "Kaimiloa," the old Hawaii naval vessel, war vessel.

Q. You tied the "Kaimiloa" on the starboard side?

A. Yes, on the starboard.

Q. And the "Concord" was on the port side?

A. Yes.

Q. Then what did you do?

A. The "Concord" was loaded then by that time in the afternoon some time and I towed the "Concord" back to Honolulu.

Q. What was the "Concord" loaded with? What was on the "Concord"? A. Fertilizer.

Q. When you went back with the "Concord," what was done then? A. Beg your pardon?

Q. When you went back with the "Concord" loaded, what did you do with her?

A. Towed her alongside the Inter-Island Company on the other side of the Hackfeld wharf,—between the Hackfeld and the Inter-Island.

Q. Then what did you do?

A. When we were coming in I had a mishap with the launch. My skegg carried away.

The COURT.—What is that, please. [857—13]

(Testimony of Frank J. Loncke.)

A. The skegg is a piece of iron that goes under the stern post under the keel and right under the—

Mr. WEAVER.—Q. What effect had that on the working of your launch?

A. I couldn't steer her and I had the launch of the Young Bros. to help me.

Q. That was while you were towing the—

A. Yes, sir.

Q. How did they help you?

A. They give me a line and towed me.

Q. The Young Bros. Did they have any vessel?

A. The launch called the "Brothers," 25 horsepower.

Q. About what tonnage?

A. I guess about 9½, 10 tons, sir.

Q. Did they have only that launch to help?

A. No, sir. They had others.

Q. This time?

A. That was the only launch that helped me, sir.

Q. The name of the boat was called the "Brothers"? A. Yes.

Q. And what did they do?

A. They towed me in, sir.

Q. And then after you were towed in what happened?

A. I took my launch on the marine railway.

Q. Where were you?

A. Right by the launch till the job was finished. It was finished the same day again.

Q. Then what happened?

A. Went out again, sir, to the "Celtic Chief."

Q. Now, when you visited the "Celtic Chief" be-

(Testimony of Frank J. Loncke.)

fore you towed in the "Concord," loaded, what was being done on deck of the "Celtic Chief"? [858—14]

A. Getting some of the cargo.

Q. That was when the men were there?

A. Yes, sir. Lots of men.

Q. Do you know how many?

A. I took a batch of about 50 or 60 on the "Concord" and took the same amount on the "Kaimilou," sir.

Q. And when you came back with the "Concord" loaded, were there any men with you or not?

A. There was three men, sir; just enough to help me.

Q. This time where were the men you had taken out? A. On board the "Celtic Chief."

Q. All that you had taken out were on board there, excepting the three you brought back, just enough to make her fast? A. Yes, sir.

Q. Then you returned after you had your launch repaired? Tuesday night?

A. That was Tuesday night.

Q. Can you say whether or not any of those men had come ashore?

A. I couldn't tell you that, sir, because I wasn't there for fully six or seven hours anyhow.

Q. Were you in sight of the "Celtic Chief"?

A. In sight of it?

Q. Could you see? A. I could have told.

Q. They did or did not?

A. They did not come off.

Q. You went back then to the "Celtic Chief" Tuesday about nightfall with the "Elizabeth." What did

(Testimony of Frank J. Loncke.)

you do there, if anything?

A. In the meanwhile I towed the "Makee" over there. [859—15]

Q. What is that?

A. The "James Makee" was towed over there.

Mr. OLSON.—When?

Mr. WEAVER.—Q. When you went there the "James Makee" had been towed there?

A. No. The "James Makee" was towed Tuesday morning.

Q. What did you do? A. Tied up alongside.

Q. What else? A. Went aboard.

Q. Do anything then? A. Just looked around.

Q. What was being done at Tuesday night, that night when you went back on Tuesday night with the launch, what was being done by the Miller Salvage Company?

A. Loading the cargo, sir, into "Kaimilou."

Q. When was the "Kaimilou" loaded? Was it Tuesday night or Monday night?

A. I am not quite sure of that, sir.

Q. Well, then, what did you do this Tuesday? I want you to give me in your own words what you did relative to the "Celtic Chief." A. Tuesday?

Q. Tuesday night.

A. Went right back to the boat, tied my launch alongside, went on board the "Celtic Chief."

Q. And while aboard tell us what you did about the "Celtic Chief."

A. I went aboard there. I saw everybody working cargo.

Q. You saw a number of people working, what did

(Testimony of Frank J. Loncke.)

you do? A. On Tuesday?

Q. Yes, Tuesday night.

A. Stayed around there. I didn't have any particular job to do.

Q. What did you do after that? We've got the launch tied up to the "Celtic Chief"; then what happened to you and [860—16] the launch after that?

A. The "Celtic Chief" came off Wednesday.

Q. Between the time you went ashore and the time the "Celtic Chief" came off, what were you doing?

A. Once in a while I was taking a gang of men off to the "James Makee" to get them something to eat.

Q. Was that Monday or Tuesday?

A. Tuesday.

Q. Whose vessel was the "James Makee"?

A. Belongs to the Miller Salvage Co.

Q. What else did you do?

A. Well, then, Wednesday morning after planting the big anchor they got all their purchase ready.

Q. What were you doing about that?

A. Just helping around.

Q. How?

A. Well, you know the way a sailor would help around. Anybody would help around.

Q. While you were helping the men the launch was being repaired?

A. No, sir; not on Wednesday. She was tied to a hoisting scow; the stevedores had a scow on the port side of the "Celtic Chief."

Q. That was Wednesday morning the stevedores had a scow there and you tied your launch alongside the scow?

(Testimony of Frank J. Loncke.)

A. I was helping on board the "Celtic Chief."

Q. Helping load? A. Yes.

Q. What else? A. Heaving in purchase.

Q. What do you mean by purchase?

A. Block and tackle; block and line.

Q. You mean a purchase tackle; that's block and tackle? A. Yes, sir.

Q. The purchase tackle is the— [861—17]

A. What I mean is a tackle block and a single block and that makes a purchase.

Q. Will you explain to the Judge so he will have an idea of what this is? Will you explain so the Judge will understand what a purchase tackle is?

A. Well, Judge, supposing this is the "Celtic Chief"; here's the stern and here's the bow; here's the water; her anchor is holding her there and there is a big wire goes from the anchor; there is a big eye in the wire inside; that wire is fast and the shills—

Q. What is a shill?

A. The shill is the wire on the block. Say there's about three of them here to the block the end of your wire. Weave it up through here three or four times. This block was just on the break of the poop.

Q. And the poop is the stern of the vessel?

A. Well, it's the quarter deck. That block was fastened just about here, the standing block. The other block was fast between and a block between the foremast and the— The fall was as far as that and when everything was taut we put another block on the fall of the first block.

Q. Explain what you mean when you use the term fall.

(Testimony of Frank J. Loncke.)

A. The fall is the line. So that block was fastened to the fall of the first block and the other block was fastened there on the same place. When the second tackle was fastened on the fall of the first one and the fall was taken to a steam capstan to a snatch-box.

Mr. WEAVER.—I might explain here in this regard of course, the theory, the physics, is that you get the heavy pull upon the end of the tackle.

Mr. OLSON.—I object to this, if the Court please.

The COURT.—I sustain the objection.

Mr. WEAVER.—Q. You were helping this purchase, what were you doing [862—18] with regard to getting the purchase tackle ready?

A. I was helping heave up, sir. Everything was taut.

Q. Where were you working on the vessel?

A. On the deck.

Q. How long did you work there?

A. All that day, Wednesday. From the time I got there Wednesday morning until the vessel came off, I stayed on board all the time, sir.

Q. And during that time, how many men were working for the "Celtic Chief" on that vessel, if you know? A. For the "Celtic Chief"?

Q. For the Miller Salvage Co.

A. That whole gang of men I had taken off of the two vessels. They were all there. I don't see how they could have come ashore.

Q. And how many men were there on Monday, if you know, belonging to the "Celtic Chief"?

A. Monday?

(Testimony of Frank J. Loncke.)

Q. Belonging to the Miller Salvage Co.

A. I told you I took about 50 or 60.

Q. Were they all there?

A. That's all I took off.

Q. Did you take them all?

A. No, sir. There must have been some come off of the "James Makee"; I didn't take them all.

Q. On Tuesday you don't know how many were there? A. No, sir.

Q. Wednesday?

A. That day a whole gang that I had taken off on Monday were there, sir.

Q. Tell what you know of those men working. How many hours did they work and what part of the day did they work?

A. It seems to me they worked all the time. [863—19]

Q. From what time?

Mr. OLSON.—I move to strike on the ground it doesn't appear that the witness knows.

The COURT.—I will grant the motion.

The WITNESS.—Well, I've answered that, sir. I could only answer the same thing again.

The COURT.—By using the word "seems" what did you mean?

The WITNESS.—That's an expression I have, sir.

Q. Were you there all the time?

A. Barring the Tuesday; barring the Tuesday afternoon.

Mr. MAGOON.—The Court struck it out. Will you leave it in, your Honor, or not?

The COURT.—I will let the answer stand.

(Testimony of Frank J. Loncke.)

Mr. WEAVER.—Were they working Monday night? A. Yes.

Q. Were they working Tuesday night?

A. When I got back they were working, yes.

Q. Were they working all day Monday?

A. Yes, sir.

Q. Were they working Wednesday?

A. Yes, sir.

Q. Were they working Wednesday night?

A. Yes, sir. The whole bunch was working; yes, sir.

Q. What was done about relief, if anything?

A. I didn't see no relief around there.

Q. Didn't you see any men sleep or rest?

A. Well, what do you call sleep? If a man happened to fall down another come pick him up and say, "Here, come on; get busy."

Q. Describe the condition of the men on Tuesday night.

A. Entirely played out, sir. They were tired out, sir, [864—20] and dirty. They had a drizzling rain. There was a little dust in working fertilizer.

Q. As I understand you there wasn't a system of shifts? A. No, sir.

Q. Every man working on there?

A. Every man working on there.

Q. There wasn't any place where he could go off and rest? A. Not that I could have seen.

Q. You were there working all the time.

A. I had a little snooze on Tuesday afternoon when I was on the marine railway.

Q. On Wednesday what was the condition of those men? A. Tired out, sir.

(Testimony of Frank J. Loncke.)

Q. The men working on the tackle?

A. Tackle and cargo both.

Q. What observation, if any, did you make?

A. I know how a man acts when he is tired out.

Q. And Wednesday night?

A. Wednesday night everybody felt happy when she came off.

Q. Before she came off what was the condition of the men—Miller Salvage Co. men?

A. Tired out, sir.

Q. When you went back from the marine railway with the Elizabeth, what did you observe the Miller Salvage Co. doing, if anything, to help the “Celtic Chief”?

A. Getting the big anchor off.

Mr. OLSON.—What time was that?

A. Tuesday.

Mr. WEAVER.—Had you observed what the Miller Salvage Co. was doing on that Tuesday?

A. That was the Tuesday evening.

Q. Before you went back, do you know what they were doing?

A. No, sir. [865—21]

Q. You speak only of Tuesday night, that Tuesday night?

A. From the time I went back to the “Celtic Chief.”

Q. That’s all you know and didn’t observe anything else?

A. No, sir.

Q. What was she doing to get the anchor out?

A. Who?

Q. What was the Miller Salvage Co. doing?

A. She had the “James Makee” out there and the “Mokolii” was towing her.

(Testimony of Frank J. Loncke.)

Q. What was that for, if you know?

A. Because the "James Makee" didn't have steam up. Just a moment. She did have steam.

Q. Can you say what the "James Makee" was there for? A. Putting that big anchor out.

Q. What did the "James Makee" have to do?

A. Because the big anchor was aboard the "James Makee."

Q. What was done?

A. It was put overboard. When I said she had no steam that was my mistake. She had steam only she was towed out by the "Mokolii."

Q. Anything else aboard besides the anchor?

A. Oh, yes. Lots of cable.

Q. Any men aboard? A. Yes, sir.

Q. You speak of the big anchor, what are you referring to?

A. That's what we call the big anchor. It's about the biggest one in Honolulu.

Q. Can you describe it in size?

A. As far as the weight I can only guess at the weight and say what I heard.

Mr. OLSON.—I object to that; the witness cannot testify to hearsay. [866—22]

The WITNESS.—Well, I've seen the anchor and I've helped handle the anchor and I know it's taken a—as far as I can judge, the weight of that anchor, I think it's about a six-ton anchor.

Mr. WEAVER.—Q. What is the size of it?

A. The length you mean?

Q. Anywhere. Size of the stock?

(Testimony of Frank J. Loncke.)

A. I guess she's got a stock there about 18 foot long.

Q. What is it made of?

A. It's made out of wood.

Q. And about what diameter is the stock?

A. The stock is about 12 inches square.

Q. Describe the other parts of the anchor.

A. There's a shank, I guess it's about 12 or 14 inches in diameter close to the crown.

Q. What's the crown? What's the crown of the anchor?

A. Well, sir, suppose this is the head of the anchor, this would be the stock coming here, sir. This would be the shank going down here would be the crown.

Mr. OLSON.—Did you testify how long the shank was?

A. I should say about fourteen foot. 14 or 16 foot as near as I can guess.

Mr. WEAVER.—Q. Will you sketch out an anchor and the names on it?

(Witness sketches on piece of paper handed him by Mr. Weaver.)

Q. Will you put on this part of the anchor the name stock?

The COURT.—I will say I understand that perfectly well.

Mr. WEAVER.—I'd like now he's made the sketch that he put the names on. The measurements that you have given, will you put the measurements of this anchor please. Put the diameter [867—23] of the stock. A. As near as I can?

Q. As near as you can. What is the length of the

(Testimony of Frank J. Loncke.)

shank, if you know?

Mr. OLSON.—It strikes me, if the Court please, that there is no use of encumbering the record with a document which will have to be photographed in case of appeal.

The COURT.—I will say that I would like to examine the sketch.

Mr. WEAVER.—Will you go on and put the length of the shank and the length of the stock? And what is the distance from flute, tip of one flute to the tip of the other? Can you give us that?

A. About ten foot between flutes.

Mr. WEAVER.—I want to introduce that in evidence. It makes intelligible what has been testified on the witness-stand.

The WITNESS.—The only difference is that the flute is opposite the stock.

Mr. WEAVER.—Q. What was the distance from the tip of one flute to the tip of the other flute?

A. About ten feet, I said, sir.

Q. Where was that anchor put? Oh, what material was the anchor made out of? A. Iron.

Q. Do you know whether wrought or cast iron?

A. No, sir, I don't know.

Q. Where was the anchor put in regard to the "Celtic Chief"? A. On the starboard quarter.

Q. When? A. Tuesday afternoon.

Q. Where were you at the time it was laid? [868—24]

A. At the time it was laid there I was in the harbor.

Q. How do you know it was laid?

A. Because it was laid when I came back.

(Testimony of Frank J. Loncke.)

Q. How do you know when it was laid?

A. Because the *high* of the wire.

Q. Was there any other indication?

A. There was a buoy on it; an empty gasoline drum.

Mr. OLSON.—I move to strike this testimony of the buoy unless the witness knows it was attached to the anchor.

Mr. WEAVER.—Q. Do you know whether that buoy was attached to the anchor or not?

A. Yes, sir.

Q. How do you know?

A. There was nothing there to hold it unless it was the anchor.

Mr. OLSON.—Then I move to strike the testimony because that couldn't possibly mean that the witness knew.

Mr. WEAVER.—Q. Didn't you afterwards find out whether that buoy was connected with the anchor?

A. Afterwards after we picked up the anchor.

Q. Didn't you see the buoy attached to the anchor?

A. Yes, sir.

Q. The same buoy?

A. That buoy got carried away.

Mr. OLSON.—Then I move to strike because—

The COURT.—I will not strike it just now.

The WITNESS.—The buoy that was attached to the anchor had been painted by me a week before that and that buoy and that wire is always lying with the anchor. Whenever I have seen the anchor I have seen that buoy there.

(Testimony of Frank J. Loncke.)

Mr. OLSON.—I renew my motion to strike.

Mr. WEAVER.—Q. When you painted it you saw that anchor and that buoy? [869—25]

A. Not the buoy.

Q. And you saw the buoy and broken chain when the buoy carried away?

A. I saw the broken wire that was used for the buoy.

Mr. OLSON.—I renew my motion to strike.

The WITNESS.—It wasn't attached in the proper way, sir.

Mr. OLSON.—Just a moment.

The COURT.—The way I feel about it is this, that is circumstantial evidence. Of course, I don't think it is evidence that the buoy was attached to the anchor, but it is evidence, circumstantial evidence.

Mr. WEAVER.—Q. Where was the buoy position at sea with regard to the position of the anchor, if you know? A. Say that again, Mr. Weaver.

Q. You know the position of the anchor, do you not? A. Yes.

Q. You know the position of the buoy, do you not? A. Yes.

Q. Where was the buoy with regard to the position of the anchor? A. It was right on top of it.

Q. That's over it? A. Yes.

Q. Then what had been done, or what was the condition of the salvage work, if you know, when you went back on Tuesday night, other than the anchor and the buoy?

A. All that night we kept tightening up on the pur-

(Testimony of Frank J. Loneke.)

chase, to prevent the vessel from going further in shore.

Q. That's Tuesday?

A. Tuesday night. No, this was Wednesday morning.

Q. Where were you Tuesday night?

A. I came back Tuesday night from the "Celtic Chief." [870—26]

Q. And Wednesday morning, then, that was connected up, is that it? A. Yes, sir.

Q. Now, then, what was done on Wednesday morning? A. Kept tightening up on the purchase.

Q. What was the tackle on the "Celtic Chief" with regard to bringing in the purchase or getting the purchase on the cable?

A. They had a slight strain.

Q. What was the tackle on board the "Celtic Chief"?

A. That is the purchase that I explained.

Q. This hasn't anything to do with the anchor. I am asking you now what kind of a rigging was up.

A. That's what I explained a little while ago.

Q. You were explaining an actual condition that was on the "Celtic Chief" when you explained purchase tackle a little while ago?

A. Yes. That was the purchase we had on the anchor.

Q. What connection, if any, had you between the anchor and the vessel, "Celtic Chief"?

A. A big wire.

Q. You mean by that? A. Steel cable.

Q. And how is a cable measured in size?

(Testimony of Frank J. Loncke.)

A. The wire is measured in diameter.

Q. And what is the size of this cable?

A. I should judge about three to three and a half, sir?

Q. Inches in diameter?

A. Inches in diameter.

Q. When you came there on board did you observe where the foot of the—this cable attached to the anchor was with regard to the ship and where it connected?

A. Yes. The wire was over the poop on the starboard, port quarter.

The COURT.—Will you repeat the answer, please?

The WITNESS.—Oh, the wire was running over the quarter, port quarter.

Recess. [871—27]

Mr. WEAVER.—In what direction was the wire leaving in regard to the poops?

A. The wire was leaving starboard, port.

Q. Dead astern? A. A little off.

Q. What is the starboard quarter?

A. Right-hand side.

Q. Quarter means what? A. Just where the—

Q. Quarter is a little to the side?

A. It means aft.

Q. What was the condition of that wire with regard to being slack or not when you got there?

A. There was a little strain on there Wednesday forenoon.

Q. Forenoon? A. Forenoon, before 12 o'clock.

Q. And you—on Tuesday night was there any line

(Testimony of Frank J. Loncke.)

aboard the "Celtic Chief" from the anchor?

A. Tuesday night?

Q. Tuesday night.

A. No. Tuesday night I came back from town.

Q. And that Tuesday—have you anything to say with regard to the lightering of the vessel by the "Celtic Chief"? You have before stated, I believe, that there was some lightering done.

A. About moving the vessel up?

Q. Who was lightering Tuesday? During the Tuesday you have stated, I understand, that the Miller Salvage Co. was lightering?

A. Yes. They were discharging fertilizer to the "Kaimilou" for her.

Mr. OLSON.—I move to strike on the ground that the witness does not know what took place until he came on board on Tuesday.

The COURT.—I'll ask a question. On Tuesday were you aboard or not, the "Celtic Chief"?

A. Not in the afternoon; not until evening.

Q. What part of the day were you there? [872—28]

A. I was there in the forenoon and I was back in the evening. I was away from the "Celtic Chief" for about 6 or 7 hours.

Q. What time of day were you away from the "Celtic Chief"? A. All the afternoon.

Q. You got back to the "Celtic Chief" about sundown?

A. When I got back Tuesday night I stayed till the ship came off.

The COURT.—Now, then, on Tuesday was there

(Testimony of Frank J. Loncke.)

any lightering done by the Miller Salvage Co. with reference to the "Celtic Chief"?

A. On Tuesday?

Q. During the time you was there?

A. I was there in the forenoon.

Q. During the forenoon when you were observing?

A. They were discharging to the "Kaimilou."

Mr. WEAVER.—That was the morning of Tuesday? A. Yes.

Q. Were they doing anything in the afternoon, if you know?

A. No, sir, I wasn't there in the afternoon.

Q. Then you don't know whether or not they were lightering on Tuesday afternoon? A. No.

Q. That is, I mean the Miller Salvage Co.

A. I don't know anything about it.

Q. When you were on the "Celtic Chief" all of Tuesday night? A. Yes.

Q. Were you working there Tuesday night?

A. I didn't work. I was just seeing what was going on.

Q. Were you awake all the time?

A. Yes, I was awake all the time.

Q. And what was being done, if anything, from the time you went on board Tuesday night up to Wednesday night with reference to this line from the "Celtic Chief" to the anchor?

A. On Tuesday night?

Q. From the time you went on board on Tuesday night up to Wednesday night what was being done about this anchor?

A. I believe I made a mistake by saying it was put

(Testimony of Frank J. Loncke.)

on Tuesday because it was not put on Tuesday.

Q. When was it put out?

A. It was put out Wednesday morning. [873—
29]

Q. What was done on Tuesday?

A. Lightering the ship.

Q. In the morning? A. Yes.

Q. What was done about the cable or anchor later, if you know? When was the anchor placed, if you know? A. Wednesday morning.

Q. The anchor was placed Wednesday morning?

A. Yes.

Q. When was the cable from the anchor brought aboard the "Celtic Chief," if you know?

A. Wednesday morning.

Q. Early morning or— A. Forenoon, sir.

Q. And did you have anything to do with it?

A. No, only helping along there fastening lines.

Q. Say that again and say it slower. Just what you said.

A. What was the question? Yes, I was aboard the ship there and reeving purchase.

Q. What is reeving?

A. Well, it's when you hold a purchase down and put it to the fall.

Q. You put the reeves to the shills of the block to make a tackle? A. Yes.

Q. And how many different tackles did you have there? A. Three.

Q. Where was the head of the first tackle?

A. The head of the first tackle was fastened after

(Testimony of Frank J. Loncke.)

and wire fastened to the anchor.

Q. Where did the—through what *apparatus* come upon the "Celtic Chief"?

A. Through the starboard chuck, sir.

Q. And at that place or at the time you went aboard and first saw this line come aboard was the cable itself coming through the chuck or were there another line? A. Oh, a line first of all.

Q. They had a line on the cable, passed it on board, took it right along till the wire came. Then the cable which was attached to the anchor was not first?

A. You have to get a line first to tow it aboard and fasten it there and pull on the line so as to pull the wire aboard. [874—30]

Q. And when did the cable itself come through the chuck, if you remember? What time of day?

A. That cable came through there in the forenoon.

Q. Was it work to get that up?

A. It took some power to get the slack of the wire up.

Q. Tell how that was accomplished.

A. When we got the end of the cable which was fast on the anchor to the chuck we put a block and tackle there and put all the strain we could on it until we put our purchase. When we had all the strain what we could get by hand there was a big block on the wire; that there block was taken forward to a lashing which went from the foremast to the starboard chuck, 8-inch bitt.

Q. Was that a bitt and chuck? A. A bitt.

Q. Then the purchase, the tackle was made, attached to a wire from the foremast to the chuck

(Testimony of Frank J. Loncke.)

which is across? A. Yes, and make it fast.

Q. And that's the holding power?

A. That was the holding power for the blocks.

Q. Then from there where did the lines, first state where did the tackle go?

A. Just as I said. Here's the block; the fall came along here.

Q. Came along aft? A. Came along here.

Q. Now, that was the first fall?

A. That was the first fall.

Q. And then where was the, you might say, pulling end of the fall?

A. The hauling end. This heaving end of the first fall was there.

Q. Anything attached to that?

A. We got the first as taut as we could.

Q. By what power?

A. By hand-power; the capstan near the fore-castle-head.

Q. The pulling end of the first fall was— [875—31] A. We had a fairly good strain on that.

Q. Now that capstan was forward and what power was used there? A. Hand-power.

Q. Hand-power by one man or more?

A. Half a dozen men there with capstan bars.

Q. What did they do?

A. When that was taut?

Q. They were using the capstan? A. Yes.

Q. How?

A. I said they used capstan bars. They had got a pretty good strain—

(Testimony of Frank J. Loncke.)

Q. Was that minutes or hours?

A. Few minutes they had a little strain on there then we came along and put lashings on the fall to keep it from slipping.

Q. A sort of a brake? A. Yes.

Q. You called it lashings on the fall. They act like a brake?

A. Yes. Then we let go that fall again and we came along and put the second purchase on there on the hauling part of the first block.

Q. When you talk about the second purchase you mean nothing but another block and tackle?

A. Another block and tackle.

Q. And that block and tackle is a fall?

A. In the first fall.

Q. And the pulling end of the fall which belongs to the first?

A. The second tackle is placed on to that as close to the block as possible and then that was hauled taut.

Q. Then you got the first block and tackle pulling on the fall as much as the capstan would do?

A. To get a good purchase on that.

Q. Then when you got that tightened up the slack of the wire toward the anchor then you attached another tackle near the first purchase tackle?

A. You call it luff upon luff.

Q. Is it sometimes called a purchase tackle?

A. Yes, it's taken as a purchase. [876—32]

Q. Then you attached that second tackle how?

A. On to the fall of the first one.

Q. Where was the other end?

A. The same place where the first.

(Testimony of Frank J. Loncke.)

Q. Where was that?

A. On the lashing between the foremast.

Q. Then what did you do with that?

A. Kept a strain on that.

Q. What was the power used?

A. Used on the capstan.

Q. How long did that continue?

A. Just held it down there and made it fast.

Q. Then what was done, if anything, to tighten up the hauling end?

Mr. OLSON.—I object to the question on the ground that it is extremely leading.

Mr. WEAVER.—What was done, if anything, after that?

A. We all stood by for some of the vessels pulling on the “Celtic Chief” meanwhile. There were steamers pulling all night.

Q. When you got that second purchase on what was done in order to carry on the work?

A. That was all that was done.

Q. And it was left alone?

A. That was left that way.

Q. What was done then? A. Just left.

Q. Go on with this.

A. We went up to the deck and started to fix up another purchase in case we need another to put it on the fall of the second fall so as to make it practically three blocks.

Q. You got it ready? A. Yes.

Q. Well, the—what was done to accomplish this work?

A. Well, the strain was on there. Lots of the

(Testimony of Frank J. Loncke.)

Inter-Island boats came alongside and took the cargo out into the boats. The men who were put on the "Celtic Chief" kept on discharging cargo all the time and taking it over to the Inter-Island boats.

Q. What was done about this tackle next?

A. Strain was left on there and there was a gathering of several captains on the poop that night.

Q. What was done about these tackles next?

A. The strain was on, the tackles were left alone.

[877—33]

Q. How long did that last?

A. That last until that night.

Q. When was this accomplished?

A. In the afternoon.

Q. About what time in the afternoon?

A. Couldn't say.

Q. Early in the afternoon or late?

A. In the afternoon; early in the afternoon.

Q. Now, you have said that the "Celtic Chief" was working up and down and working in towards shore on Monday? A. Yes.

Q. And you said when you were there on the boat on Tuesday she was working? A. Yes.

Q. Now, what did you observe, if anything, about the working of the "Celtic Chief" on Wednesday?

A. While we had our tackle on she seemed to be much steadier than she was before.

Q. How was she working on Tuesday, for instance, just before you left?

A. Supposing this is the ship, it looks as if *the* she was lying on a pinnacle. That is the way the ship was.

(Testimony of Frank J. Loncke.)

Q. Put it in words.

A. She was acting like a vessel sitting on a pivot.

Q. And working?

A. She was grinding up the coral all the time. There was just a mass of white water.

Q. And which way was she moving in regard to the shore?

A. She seemed to be going further and further all the time.

Q. And when you went back there on Tuesday night, did you observe anything about that?

A. I didn't bother about taking any bearings at Tuesday night.

Q. What did you observe next?

A. That evening with all the vessels pulling on there that she was stuck pretty fast and they had made arrangements—

Q. What do you mean by they?

A. The people aboard the "Celtic Chief" had made arrangements with the people aboard the steamers who were pulling on the "Celtic Chief" to put up two red lights on the starboard mizzen rigging. Two lights mean pull full speed.

Mr. OLSON.—Do you know this of your own knowledge?

A. Yes, because I was on the poop when the lights were put up. [878—34]

Q. Do you know this of your own knowledge?

A. I know that myself.

Q. You heard the arrangement made? A. Yes.

Q. Between whom?

A. Some of the men aboard there.

(Testimony of Frank J. Loncke.)

Mr. WEAVER.—Speaking of Wednesday, after you observed the position of the ship what did you notice with regard to the working of the ship?

A. Wednesday afternoon?

Q. On Wednesday morning did you observe anything with regard to working in or out?

A. Wednesday morning?

Q. Yes.

A. I don't quite understand your question, sir.

Q. You say that you did observe on Tuesday certain working. Now, on Wednesday what did you observe,—we'll say before the tackle was taut?

A. I observed she was working further in as they took the cargo out.

Q. How did you observe that?

A. By marks on shore.

Q. Now, then, what effect—what was your observation after this tackle was taut?

A. That she didn't go any further.

Q. Then you say that you got the tackle taut and stopped working on it; was there any work done after that?

A. Well, the boys stood by while the vessels were pulling on her and it was an agreement that high-water was about half-past one or two o'clock Thursday morning, and about 11 o'clock or half-past ten Wednesday night, ten o'clock, rather, they decided to have a good pull together by the steamers so they put up the two red lights and they all went full speed.

Q. At what time?

A. About ten o'clock, as near as I can guess.

Q. Yes.

(Testimony of Frank J. Loncke.)

A. Well, they pulled all they could; a considerable strain on the wire, but the vessel didn't come.

Q. Were you making any observations at that time? A. Yes.

Q. What?

A. I was sitting on the capstan right underneath *the*—

Q. Where was the capstan?

A. Between the main and mizzenmast; and I had a line sitting on that capstan. I stayed on that capstan fully half an hour, two hours, and they had a line, they had one of the back stays of the main topmast in line with [879—35] two lights, two channel lights and I kept them in line. You couldn't keep a steady line all the time. They pulled on there for quite awhile. I stayed down there all the time and watched them and then they decided, I remember one of the boys went up on the mizzen spar and took one of the lights down and the word was passed along the deck that there weren't going to pull until high-water which would be about half-past one, and Capt. Miller came down and said, "I am sure that fellow"—

Mr. OLSON.—Move to strike.

The WITNESS.—Capt. Miller came down and got two lines to get a good strain on the tackle.

Mr. WEAVER.—Made that with what?

A. He got them all on the purchase on there and we all pulled on there and took to the gypsy-head.

Q. What is the gypsy-head?

A. It's a large steel drum in the shape of a spool.

Q. That was attached to the steam winch of the "Celtic Chief"?

(Testimony of Frank J. Loncke.)

A. That was attached to the steam winch.

Q. Then what did you do?

Mr. OLSON.—I object to his leading the witness.

Mr. WEAVER.—Withdraw it. What was this—

The COURT.—I think the objection is technically sound, but in view of the fact that the steel drum has probably something to do with the winch I'll sustain the objection. The last answer is stricken out.

Q. What was this gypsy-head attached to, if anything?

A. The gypsy-head was attached to the winch of the "Celtic Chief."

Q. What kind of a thing is the winch?

A. I'll explain to you, sir. Supposing this is the house aboard the ship, sir; it runs like this: here at the aft part of the house we call the donkey-room, here's the main hatch.

Mr. OLSON.—I'd suggest that one or two witnesses here for [880—36] the Miller Salvage Co. who are hearing the testimony be excluded.

The COURT.—So ordered.

Mr. WEAVER.—What kind of donkey?

A. They have a kind of donkey boiler.

Q. What's a donkey boiler?

A. This kind for hoisting cargo out of the ship that's the same boiler. Shall I explain that boiler, sir?

Q. Only in general?

A. That's a steam engine what they use for hoisting sails and hoisting cargo and that gypsy-head came outside of the house.

Q. That gypsy-head was a part of this engine?

(Testimony of Frank J. Loncke.)

A. Yes, it sticks out through the side of the house and there is a bobbin on her.

Q. Then how long did you use that?

A. That was used for heaving tight on the second purchase you see. That second purchase had been hove tight by hand that was taken out of the main deck and taken to the gypsy-head and hove taut. When that was taut we put lashings there and put a brake as you say.

Q. The brake was there for what purpose?

A. To keep it from slipping while we let go the falls.

Q. To keep what from slipping? The fall itself.

Q. If there was any slip what effect would that have? A. It would slack out.

Q. Then what did you do?

A. We brought that fall as far to the hauling part of the second block and we put a third block on that. That third block was taken back to the same place so practically there were three blocks: the first purchase, the second purchase, and the third purchase.

Q. And then what did you do with the third?

A. The third was taken to that gypsy-head, sir.

Q. Then what did you do?

A. Just a moment. That fall was taken down here and hove to a snatch-block. What they call a snatch-block is a block that can be opened, and taken back to the [881—37] gypsy-head and some of the sailors began to heave, sir.

Q. Heaving with steam?

A. Yes. Then I went back to my capstan and I tied a piece of line that I should say a line about the

(Testimony of Frank J. Loncke.)

size of this pencil, tied to the wire.

Q. What capstan were you on?

A. The main capstan, sir, aft. The one that stood between the main—and that block and the first purchase were just about in line with me and I had that line with me and I had two lights on line, the channel light. The two, the white light and the red light. Well, sir, I had a stick in my hand and I kept hitting the line with that stick.

Q. What was the line? A. The main wire.

Q. The one attached to the anchor? A. Yes.

Q. How long did this condition of things last, you hitting the wire?

A. I was done there fully three-quarters of an hour.

Q. During that time was anything done by others?

A. No, sir.

Q. Well, then, after you started this observation, how long did you continue it?

A. For fully three-quarters of an hour, sir.

Q. What happened during that time?

A. The ship was laboring while the strain was on that wire and first thing I knew I lost my bearing and then the second light went up and then they all began to go full speed.

Q. Then your main cable dropped slack before the light went up? A. Yes.

Q. And when did they begin to pull full speed in regard to the time the ship came off?

A. The ship was off.

Q. When did they begin to pull full speed in regard to the time the wire became slack?

(Testimony of Frank J. Loncke.)

A. As soon as they saw the two red light.

Q. Was that after the block fell down?

A. That was after the block fell down and I lost my bearing.

Q. Can you say whether that was minutes or seconds? A. To go down below and get the lights?

Q. Yes. A. About two minutes. [882—38]

Q. After the light went up how long did it take for them to go full speed?

A. Well, there was a commotion about the ship. After the light went up.

Q. How long was it before you noticed any pulling? A. I don't quite catch your question.

Q. You spoke of the two lights going up and that the vessels pulled full speed. How long between the time that light went up?

A. That's hard for me to tell. I was on the "Celtic Chief."

Q. Was it a long time or a short time after the light went up and the time they began to pull?

A. I can't tell that.

The COURT.—Was it half an hour?

A. No, sir; couldn't have been that long because after the tackle fell down we got orders to cast off everything, cast off our purchases.

Q. Then what happened?

A. All the vessels were starting ahead and the vessel was off.

Q. Did you observe the "Arcona" during this time of Wednesday? A. Yes.

Q. Were you aboard at any time when the "Arcona" was attempting to assist the "Celtic Chief"?

(Testimony of Frank J. Loncke.)

A. Yes, sir.

Q. Did she have any cables to the "Celtic Chief"?

A. Yes, she had a wire out to the "Celtic Chief."

The COURT.—What vessel is that?

The WITNESS.—The "Arcona," German vessel.

Mr. WEAVER.—Well, what can you say with regard to the lines that she had, if any, to the "Celtic Chief"? A. Well, those lines were fairly taut.

Q. How many did she have?

A. She had two cable along there and they came from the "Arcona." They came down this way. Supposing this was the stern of the "Celtic Chief"—

Q. Can you describe it so it can go into the record?

A. Well, there is what you call the chuck just about in the break of the poop that's on the main deck; and there's what you [883—39] call chuck door and that door was open and the "Arcona" wires came through here fastening to the bit on the waist of the ship.

Q. Was there any other vessel beside that one?

A. I remember the "Mauna Kea" had a line to its mizzenmast.

Q. I mean the "Arcona."

A. She had two wires.

Q. Where was the other?

A. Both in the same place.

Mr. OLSON.—Both were attached to the same place on the "Celtic Chief"?

A. On the starboard chuck.

Mr. WEAVER.—What was the strain on those lines?

A. There wasn't much strain.

(Testimony of Frank J. Loncke.)

Q. You say there wasn't much strain. What time are you speaking of? A. What do you mean?

Q. You say there wasn't much strain with reference to what time?

A. That was before the vessel came off.

Q. How long were these lines on between the "Arcona" and the "Celtic Chief"?

A. They got them on the afternoon. She parted a wire first then she came with two others.

Q. Do you know how long they were kept that way? A. I don't know.

Q. All the afternoon or part of the afternoon?

A. Part of the afternoon.

Q. During the hours of daylight did you observe what the strain was? A. She was taut at times.

Q. What do you mean?

A. The weight of the wire itself will form a bight.

Q. That bight was what with regard to the surface of the sea? A. It was in the water half the time.

Q. Did you observe the strain on it, if any?

A. Yes, strain at times.

Q. And then what was its condition?

A. Just slack again.

Q. How long did that continue?

A. Until they started to pull.

Q. Up to what time?

A. She kept pulling; she carried a wire *the she* put two cables on there and those cables stayed on there all the time until she dragged the vessel clear.

Q. During that time can you say whether or not the "Arcona" was exerting [884—40] any strain on this cable?

(Testimony of Frank J. Loncke.)

A. They all were exerting strain on the cables until they came to the conclusion that they weren't going to pull until high water.

Q. When did they release the strain?

A. About half-past ten.

Q. You say the "Arcona's" wires had no strain?

A. Well, only to keep them out of the water.

Mr. OLSON.—You know that they were anchored.

A. I know they were anchored.

Mr. MAGOON.—The ships were anchored?

A. The ships were anchored.

Mr. OLSON.—The "Arcona"?

A. The "Arcona" and others.

Mr. WEAVER.—From the time the "Arcona" and the others started pulling how long was it to the time when these red lights, the second red lights, went up?

A. About three-quarters of an hour.

Q. And between those times what was being done, if anything, by the Miller Salvage Co.?

A. Heaving on our purchases.

Q. By what means?

A. By means of the steam winch.

Q. *Where* were you doing that time?

A. Sitting on the capstan.

Q. How do you know the winch was being used?

A. Hearing the exhaust and seeing that strain going on there all the time.

Q. Could you observe any motion in regard to the cable attached to the anchor on board the "Celtic Chief," whether or not it was going?

A. Well, there's bound to be a little see-sawing.

(Testimony of Frank J. Loncke.)

Q. You observed a motion back and forward?

A. Not the blocks.

Q. Up to that time what had this motion been?

A. Coming in some until we got a strain on.

Q. During the time you were seated there there wasn't the forward motion there had been prior?

A. Oh, no.

Recess. [885—41]

The COURT.—Right here I might say that if Judge Weaver desires to put this in evidence, I don't believe I can exclude it.

(Referring to diagram of anchor.)

Mr. WEAVER.—I don't desire to put it in evidence; only to make it intelligible to your Honor.

Q. When the "Celtic Chief" moved at the time you say that the cable became slack and you were sitting on the capstan, what did you do then?

A. I jumped out to see where my launch was. After we began to move I looked over the side for my launch and my launch was alongside that donkey-scow, that same hoisting scow.

Q. Was that attached to the "Celtic Chief"?

A. That was attached to the "Celtic Chief," yes.

Q. When she came off describe the lines on the "Celtic Chief."

A. She had lines to the port side. My launch was alongside. When she came off they let go a line from that scow to keep her in place so when the "Celtic Chief" went off the scow let go.

Q. Were those the only lines cut?

A. No, they cut off the wires.

Q. What boats? A. Inter-Island.

(Testimony of Frank J. Loncke.)

Q. How many?

A. I just remember that big man Fern with a big axe cutting wires.

Q. Did he cut the "Arcona" wire?

A. The "Arcona" kept pulling.

Q. Where was the "Arcona"? A. Pulling.

Q. And where was the—what was the relative position of the "Arcona" and the "Celtic Chief" after the "Arcona" *after the* "Arcona" began to move her off?

A. Almost in line after the "Celtic Chief."

Q. Was there any difference in the distance between them or were they the same?

A. The same, I suppose. The whole length of the wire.

Q. How far was the "Celtic Chief" from the "Arcona" when the pulling was started?

A. I couldn't judge the distance.

Q. Immediately upon the "Celtic Chief" getting off the reef, what did the "Arcona" do, if anything?

A. Kept on pulling, sir.

Q. And was there any change, any difference between the two when [886—42] the "Arcona" got off the reef, after the "Celtic Chief" got off?

A. You mean distance between the "Arcona" and "Celtic Chief"? No, sir.

Q. The "Arcona" after that did what?

A. I didn't see what she did after that because I wasn't on the deck. I was trying to get back to my launch.

Q. When these two red lights went up what was the condition of the lines to the "Arcona" with re-

(Testimony of Frank J. Loncke.)

gard to being taut or slack?

A. About the same as they were before, sir.

Q. And after that, after the lights went up?

A. Tightened up more.

Q. And after the "Celtic Chief" began to move off where was the "Arcona" with regard to the "Celtic Chief"? A. Just about astern.

Q. And what was the condition of these lines to the "Arcona" from the "Celtic Chief" immediately after the lights went up?

A. Tighter than they were before.

Q. And what did the "Arcona" do after that?

A. Well, I don't recollect very well what happened after that.

Q. Now, immediately after this "Celtic Chief" came off the reef what was the condition of the lines to the "Arcona"?

Mr. OLSON.—I object to the question on the ground it has been asked and answered.

The COURT.—Overruled.

The WITNESS.—Said they were slack, sir.

Mr. OLSON.—Was that before or after the lights went up?

Mr. WEAVER.—Permit me to conduct the examination.

(Question read.)

Up to the time the red lights went up on this "Celtic Chief" and after the "Celtic Chief" came off, between those two times, what was the condition of the lines between the "Celtic Chief" and "Arcona"?

A. Slack.

Q. Then when the lights went up what happened

(Testimony of Frank J. Loncke.)

after that with [887—43] regard to the lines between the "Celtic Chief" and "Arcona"?

A. When I said slack, I couldn't very well see. I knew they were pulling full speed and they couldn't be very tight.

Q. Where was—what was the relative position or distance between the "Arcona" and "Celtic Chief" immediately after the "Celtic Chief" moved off the reef? Was it the same or not?

A. I'm catching on to your question. They seemed to come together for awhile.

Q. What do you mean?

A. Because some of the other vessels were pulling harder than she was.

Q. What was coming together?

A. The stern of the "Arcona" and the stern of the "Celtic Chief."

Q. Do you know whether the lines to the Inter-Island vessels and "Intrepid" were cut?

A. All cut clear, I suppose.

Q. All cut clear of what?

A. The vessel coming off.

Q. To get the vessels of the Inter-Island clear of the "Celtic Chief"? A. It had to be done.

Q. They were lying in anchor and they had to cut their lines so that the "Celtic Chief" would not bump them? A. Yes.

Q. How about the "Arcona"? Was that anchored? Was the "Arcona" anchored?

A. The "Arcona" was anchored, too.

Q. And when the "Celtic Chief" came off was she anchored? A. They all were anchored.

(Testimony of Frank J. Loncke.)

Q. Then did you observe anything with regard to the position of those two vessels, "Celtic Chief" and "Arcona"? Tell us again about it. Immediately after the "Celtic Chief" got off you said that the "Celtic Chief" was on the reef and the "Arcona" was [888—44] the one hauling on her line. Describe more clearly how close they were.

A. Supposing a vessel is stuck on the beach and there is a strain on there, when she comes off she is going to keep going. The strain is going to—her momentum—

Q. What happened in this particular case? Can you say how much closer the "Celtic Chief" got to the "Arcona" than before, if you know?

A. No, I couldn't tell that.

Q. Just before the "Celtic Chief" came off, where was Capt. Miller? A. Right on the quarter deck.

Q. Was he there all the time?

A. No, he was around over all the vessel chasing back and forth.

Q. Was he on the deck all the time?

A. Yes, he was on the deck all the time.

Q. How long did you observe him there, about?

A. About most of the time when I was sitting there he was on the poop.

Q. Do you know Capt. McCaulay?

A. Yes, I know Capt. McCaulay.

Q. Where was he? A. He was right there.

Q. Was he there all the time?

A. He was there on the poop all the time.

Q. Do you know Capt. Henry of the "Celtic Chief"? Did you know him then?

(Testimony of Frank J. Loncke.)

A. I have seen him.

Q. Where was he?

A. He was most of the time down below. His mate did more than anybody else.

Q. Do you know whether or not Capt. McCaulay was at any time down below while you were observing?

A. I know he went below to have some sandwiches, because they [889—45] come up together.

Q. Who were they?

A. The officers, Capt. Miller was one of them. Capt. Miller, and Capt. McCaulay, the mate and the captain of the ship.

Q. By captain you mean Capt. Henry?

A. The captain of the "Celtic Chief."

Q. And where was Capt. McCaulay at the time that you observed this tackle drop?

A. Well, after she had dropped I was on deck and I saw Capt. McCaulay talking to Capt. Miller, and Capt. McCaulay pulled out his watch and said, "Quarter past eleven, Capt. Miller," or something like that. Quarter past or twenty minutes when she came off.

Mr. OLSON.—Move to strike that out as hearsay.

Q. Was Capt. Henry present at this time?

A. I don't remember seeing Capt. Henry.

The COURT.—Of course, whether the time comes in or not it might depend upon the relation between Capt. McCaulay and the other men.

The WITNESS.—If I was to live fifty years, I would not forget three instances, and one of them is that Capt. McCaulay stood upon the wheel-box and

(Testimony of Frank J. Loneke.)

he pulled out his watch at the time.

Mr. OLSON.—I move to strike.

The COURT.—I reserve my ruling on that to Monday morning at half-past nine. [890—46]

Monday, May 22, 1911.

Mr. MAGOON.—I believe your Honor said you would rule later upon introduction of testimony which we claim was part of the *res gestae*.

The COURT.—Still it's hearsay, nevertheless. This witness is testifying what some other man said.

Mr. WARREN.—At this time I'd like formally to join in a motion to strike, upon the ground that it is not competent evidence of the time the vessel came off, and if there is any other possible bearing which that evidence can have on the issue of the case, your Honor will rule that it's not admissible for the purpose of proving time.

The COURT.—I so rule.

Mr. MAGOON.—What does your Honor rule?

The COURT.—Sustain the objection.

Mr. MAGOON.—Exception.

Mr. WARREN.—At this time I would like to state that in all objections and motions may it be understood that we make them on behalf of the Inter-Island and Matson people unless specifically made.

The COURT.—I will say right now that it will not be necessary to take any exceptions. If the record show the objections that will be sufficient.

Mr. MAGOON.—Q. I'll ask you what is the difference, so far as the tensile power is concerned, of a ship—of one of the steamers which was pulling there, having an anchor out in front and the pull which

(Testimony of Frank J. Loncke.)

that steamer gave and the pull which would be made on this anchor of the Miller Salvage Company?

Mr. OLSON.—I object to the question, if the Court please, on the ground that it is uncertain and unintelligible; in the second place, on the ground that it does not appear that the witness is qualified.
[891—47]

Mr. WARREN.—Same objection.

Mr. MAGOON.—What would be the difference, if there is any difference, between the pull which would be exerted by one of the ships that were pulling on the "Celtic Chief" with an anchor out in front, and the pull which would be exerted on the Miller Salvage anchor?

Mr. OLSON.—I object to the question on the ground it is uncertain and that the witness does not appear qualified to answer.

Mr. WARREN.—I'd like to add as a further ground to the same objection which we make, that there is nothing to show what vessel is referred to and what pulling powers are to be compared or anything about the good many pulling agencies.

Mr. MAGOON.—What experience have you had in the towing of boats at sea?

A. Well, I was in the United States Cutter Service. We towed several vessels, towed them out to sea. The United States Revenue Cutter Services, whenever there is a vessel ashore and there is a Revenue Cutter over there, she is the first vessel to be sent. When the "Manchuria" was ashore on the other side of the island, the United States Revenue Cutter was.

(Testimony of Frank J. Loncke.)

Q. What did you have to do with the "Manning"?

A. I am coming to that. I want to say when the "Manchuria" was on they had several vessels and all the pulling they was doing never moved her, but when Captain Medcalf came he had them place anchors there and everybody in Honolulu knows that Captain Medcalf was the one got the vessel off.

Mr. OLSON.—I move to strike the evidence of the witness in regard to the "Manchuria" on the ground it doesn't appear to have any bearing on the case.

The COURT.—I'll sustain the objection on the ground it's immaterial what people thought about the "Manchuria." [892—48]

Mr. MAGOON.—I want to get your actual experience with reference to the towing and pulling of boats at sea. Now, what actual experience have you had?

A. About six months ago on the other side of the island I was engineer on the towboat called the "Kaena" and we run afoul of a coral bed with a load of pineapples. We got the "Kaimilou" and she tried all she could to pull us off. Even at high water she couldn't do anything. We got some anchors out and put tackles out and by that means got the "Kaena" off.

Q. Did you have an opportunity to observe, then, the difference between a ship pulling an object that had been grounded, another boat that had been grounded, and the pull as against an anchor?

A. Yes, I had some experience.

Q. Have you had any other experiences?

A. Not personally; no, sir.

(Testimony of Frank J. Loncke.)

Q. At sea. I say—have you been on a towboat?

A. Yes.

Q. How long have you been on a towboat?

A. I have been engineer on this towboat for two years and a half; the present towboat I'm on, the "Kaena."

Q. While you were engineer of that boat have you ever had any experience in towing vessels?

A. Towing vessels; yes, sir.

Q. Prior to this boat, have you had any experience in towing?

A. Not in towing, not in towing boats. In small boats, yes.

Q. What experience have you had in towing small boats?

A. Towing scows around the harbor and outside down to Pearl Harbor. Just the average work.

Q. Are you familiar with the water where the "Celtic Chief" was stranded?

A. Fairly; yes. [893—49]

Q. Do you know about the swell there?

A. Yes.

Q. Know rough and smooth water? A. Yes.

Mr. MAGOON.—I submit to your Honor that the witness is qualified.

The COURT.—Mr. Loncke, in regard to your experience on the "Manning," what was the date of that experience?

A. The experience of the salvage operations?

Q. On the "Manning."

A. I couldn't remember the date. I know it was when the "Manchuria" was ashore and the "Sheri-

(Testimony of Frank J. Loncke.)

dan" was ashore.

Q. You were at both those wrecks?

A. Yes, sir.

Q. In what way were you present at those wrecks?

A. I was aboard the United States Revenue Cutter Service here.

Q. What were you doing?

A. I was boatswain's mate.

Q. What did the "Manning" have to do with the "Sheridan"?

A. She went out to put a cable on the "Sheridan" trying to pull her off.

Q. And those times or either time were you—what attention were you paying to the operation of pulling?

A. Why, I was just doing my duty aboard, sir; making fast the towing wires and bringing—may I explain the way we did it, sir?

The COURT.—I don't care for that, thank you, but I want to know what part you have had in observing the pull at that time. In both cases.

A. We had cables out to the "Sheridan" the same as the Inter-Island boats and the towboat there. We pulled on there for a long time, sir, and were never even able to budge her.

Q. And you were there where you could observe, were you? A. Oh, yes.

Q. Did you have an active part in it yourself?
[894—50] A. Active part?

Q. Yes.

A. Yes, sir. I was a member of the crew aboard the Revenue Cutter service, casting the wires off.

(Testimony of Frank J. Loncke.)

Mr. OLSON.—I'll ask the witness. How long was the "Manning" at work on the "Sheridan."

A. The "Manchuria" was ashore first, so we were there. When the "Sheridan" went ashore we had orders to go to her. I don't remember the time. When we saw the vessels was doing any good we got word that the "Sheridan" was ashore and our orders were to proceed to her.

Q. And you did that? A. Yes, sir.

Q. Were you at the scene, at the stranding when she came off? A. Yes.

Q. Were you there at the time when she first came out, she came off? A. Yes.

Q. Were you on the scene of the stranding when the "Manchuria" came off? A. Yes.

Q. Were you there during the whole of the time of the salvage operations?

A. Not the whole of the time, no, sir. We left the "Manchuria" down there and went to Barber's Point.

Mr. OLSON.—That's all.

Mr. WARREN.—I'd like to ask what vessels were pulling.

A. The cable ship "Restorer."

Q. Do you know what power was exerted?

A. No, sir.

Q. Do you know anything about her horse-power?

A. No, sir.

Q. Some other vessel?

A. The tug "Intrepid"; she was the first one.

Q. Do you know what strength she put on?

A. No, sir.

(Testimony of Frank J. Loncke.)

Q. Horse-power? A. No, sir. [895—51]

Q. Any other vessel?

A. I believe the whole Inter-Island fleet was there.

Q. Do you know anything about the horse-power or strain that was actually put on by any vessel?

A. No, sir.

Q. Did they have an anchor out? You don't know whether they were anchored?

A. They generally are.

Q. You don't know what the anchor was or what the strain on the anchor was? A. No, sir.

Q. In the case of the "Sheridan" do you know what the strength of the pull was? Did they have an anchor out?

A. You mean did the vessels pulling on the "Sheridan" have anchors out?

Q. Did they have any anchors out like Captain Miller had in this case? A. Yes.

Q. Do you know what strain was that was put on them? A. No, sir, I don't know.

Mr. WARREN.—I submit the witness does not know enough about comparisons.

The COURT.—I believe that he does but he may not understand the meaning of the word. He may not be able to say what the strength of the pull was, what the strain was, in terms of physics or mechanics.

Mr. OLSON.—If the question were put this way, is there any difference between the effective power of a vessel towing by means of her propeller and an anchor that is fastened in the bottom of the sea and heaved in by means of tackle? That would be a proper question.

(Testimony of Frank J. Loncke.)

Mr. WARREN.—I don't agree with Mr. Olson.

The COURT.—Read the question. [896—52]

(Following question read: "What would be the difference, if there is any difference, between the pull which would be exerted by one of the ships that were pulling on the 'Celtic Chief' with an anchor out in front and the pull which would be exerted on the Miller Salvage anchor?")

The COURT.—There is no question that this witness knows. He has testified that he knows the difference between these different ships that were pulling. I'm not sure that he has covered that question. Read the question.

(Question re-read.)

The COURT.—That might cover any possible pull by two different ships but would not necessarily cover the actual pull at that time.

Mr. WARREN.—My objection isn't only to this question but to the point that the witness has not yet been shown to be qualified to answer such a question.

The COURT.—Mr. Magoon, you had better examine the witness along the line suggested to clear it up.

Mr. MAGOON.—Q. Do you know the difference between the effectiveness of a pull by a ship using the propeller and a pull on an anchor that is stationary?

A. Yes, sir.

Q. What is that difference?

Mr. WARREN.—Same objection, your Honor. There is nothing shown upon what his opinion is to be based.

(Testimony of Frank J. Loncke.)

Mr. MAGOON.—Answer the question, please.

Mr. WARREN.—Will your Honor rule on the objection?

The COURT.—Yes. I overrule the objection.

A. Supposing this is the “Celtic Chief” here, sir. She is solid, she is fast ashore. Here’s an anchor that’s fast—great, big anchor. You have a purchase on there that leads over to the vessel that is fast ashore. You keep aheaving on that. Something [897—53] is going to give and the anchor don’t give. You take a vessel that’s afloat; something is giving. She slips the water. That’s what gives. This anchor is solid and the ship is solid.

Mr. OLSON.—I move to strike out the answer of the witness. It is irrelevant and immaterial and has nothing to do with this case.

The COURT.—I admit it only for the purpose of showing his qualifications. I do not consider it as evidence in the case.

Mr. MAGOON.—Now, then, let’s go one step further and have an anchor out over the bow of the steamer that’s pulling. What effect would that have?

A. That would have the same effect as the salvage anchor because it is holding the steamer in position. I suppose, just as luck would have it, the big anchor was caught in the back of a big rock.

Mr. OLSON.—I move to strike that out.

The COURT.—So ordered.

Mr. MAGOON.—Q. Now, you have said that having an anchor out over the bow of the steamers pulling would have the same effect? A. Yes.

(Testimony of Frank J. Loncke.)

Q. What is that anchor over the bow for?

A. To keep the vessel from moving. To hold the vessel steady.

The COURT.—It would satisfy the Court better if he could say just what was done at that time.

Mr. MAGOON.—Do you remember at the time the "Celtic Chief" came off the reef what boats were there to pull or what boats were pulling?

A. No, sir. The only one I am certain of is the German vessel.

Q. Do you know whether or not the "Mauna Kea" had pulled on the [898—54] "Celtic Chief"?

A. When she came off, sir?

Q. Not when she came off; whether she had pulled.

A. Yes, sir, she had pulled on there.

Q. Do you remember what happened when the "Mauna Kea" was pulling?

A. No, sir; I don't exactly remember what happened but I know she left a dent in the mast.

Q. Do you remember what kind of a cable she was pulling on? A. Pulling on a cable.

Q. Was it a manila rope cable or was it a wire cable? A. I don't remember that.

Q. Do you remember what happened to the cable?

A. No, only what I have heard; that she parted it.

Mr. OLSON.—I move to strike on the ground it is hearsay.

The COURT.—So ordered.

The WITNESS.—I didn't see her part.

Mr. MAGOON.—Q. Do you know whether or not the "Arcona," at the time of the pulling when the "Celtic Chief" came off the reef, had an anchor out

(Testimony of Frank J. Loncke.)

in front? A. No, sir, I don't know that.

Q. Do you know whether or not the Inter-Island steamers that had been pulling on the "Celtic Chief" had anchors out in front?

A. I don't know that, sir.

Q. You say that you took up the anchor of the Miller Salvage Company? A. Yes.

Q. What were the conditions which you observed at the time of the taking up of that anchor?

Mr. OLSON.—I object on the ground that the question is uncertain.

Mr. MAGOON.—What were the conditions at the time that they got that anchor with reference to the anchor? [899—55]

Mr. OLSON.—Withdraw my objection.

A. Well, sir, the water was very clear when we looked for it next morning. The buoy had been cut off and we had to drag for the anchor. The water was clear and I located the anchor, located the cable first and I found the anchor.

Q. Now, what did you observe?

A. I observed the anchor was caught.

Q. What do you mean by saying that the anchor was caught?

A. Suppose here's a stone on the bottom of the sea. It appears the anchor had been put here and the strain put on till she caught on the back of the stone.

Q. What effect would that have with reference to the anchor?

A. Why, you couldn't move that anchor.

Q. Why couldn't you move it?

(Testimony of Frank J. Loncke.)

A. Why, you would have to move that whole rock with it.

Q. Pull up the whole bottom of the ocean?

A. Practically that.

Q. Now, can you tell us what would be the difference, if any, between the pull which was exerted on that anchor of the Miller Salvage Company and the pull of all the other ships that were there put together?

Mr. OLSON.—I object to the question on the ground that it does not appear that the witness is qualified to answer in that he has already testified that he does not know how the vessels pulling on the "Celtic Chief" were pulling her.

Mr. MAGOON.—Withdraw the question. Can you tell us the means by which the vessels which were pulling there, the "Arcona" and the Inter-Island boats, were pulling; whether they were pulling by propeller?

A. That's the only way I know they were pulling, by the propeller. That's the way they were hauling up. I couldn't look ahead and see whether the anchor was out. [900—56]

The COURT.—You don't know, then, whether they had an anchor out?

A. No, sir, but it is customary to do so. I don't think there is one vessel would do without it, sir. That's the first thing they would do, sir.

Mr. OLSON.—I submit, if the Court please, that this witness can't give any light—throw any light upon this subject.

The COURT.—I am not satisfied, even assuming

(Testimony of Frank J. Loncke.)

that the man is qualified in every way, even though he is an expert, I don't see that he can testify or has testified thoroughly enough yet in regard to all the conditions to make his opinion as valuable as the Court desires at this time. I have got practically to decide this case on that very question and I don't want to decide it yet, so early. There is a whole lot more that has got to be shown yet.

Mr. OLSON.—Your Honor, then, sustains the objection?

The COURT.—I sustain the objection at this time.

Mr. MAGOON.—Cross-examine.

Cross-examination by Libellee of ———.

Mr. OLSON.—Q. Do you know what time of night it was that the "Celtic Chief" came off the reef?

A. Yes.

Q. What time was it?

A. According to Captain McCaulay's watch—

Mr. OLSON.—Then I move to strike the testimony that the witness is beginning to give, on the ground that it is hearsay. Do you know personally?

A. No, sir.

Q. You did not have a watch? [901—57]

A. No, sir.

Q. So you do not know the time when the "Celtic Chief" came off the reef? A. No, sir.

Q. It was night-time? A. Yes.

Q. You do not know of your own knowledge whether it was before midnight or after?

A. I do not.

Q. How long was it that you sat at the capstan making observations as to the location and position

(Testimony of Frank J. Loncke.)

of the "Celtic Chief" before she came off?

A. About a half a hour.

Q. Didn't you state about three-quarters?

A. I said about.

Q. It might have been three-quarters?

A. It might have been.

Q. It might have been an hour? A. Hardly.

Q. Did you change your position at all during that period of time until the "Celtic Chief" came off?

A. Well, what do you mean?

Q. Did you sit right there by the capstan?

A. I sat right along there.

Q. Where is the capstan?

A. Right below the skids.

Q. And where with reference to the amidships?

A. Aft amidships.

Q. How far aft?

A. Well, just about on the after part of the main rigging and the fore part of the break of the poop.

Q. I would like to have you draw roughly the—draw the deck of the vessel and then mark on that the position of the capstan. Use the whole length of the paper. [902—58]

(Witness draws.)

Q. Have you drawn the deck of the vessel?

A. Yes, sir.

Q. On this sketch I wish that you would mark the stern of the vessel, please, stern. Write "stern." Which is starboard and which is port? Mark it on the sketch.

(Witness marks on sketch.)

Q. You have marked on this sketch the position of

(Testimony of Frank J. Loncke.)

the capstan where you were located in making observations prior to the "Celtic Chief" coming off the reef? A. Yes, sir.

Q. You have marked that capstan with the word "capstan"? A. Yes, sir.

Q. Where is that capstan located or was that capstan located with reference to the side of the vessel? About how far? A. Just amidships.

Q. A little abaft of amidships length?

A. Yes. The mainmast on the boat.

Q. And the capstan is a little abaft of the mainmast? A. Yes.

Q. About how wide is the "Celtic Chief"?

A. About?

Q. Yes, what was her width?

A. It was fifty-five or sixty feet.

Q. Was it a dark night or a clear night? I'll withdraw that question for a moment. I'll ask that this sketch made by the witness be allowed in evidence and marked "Lonche, Exhibit 1"; "Libellee's Exhibit 1, Lonche."

The COURT.—So ordered.

Q. Now, then, Mr. Lonche, was it a clear night or was it dark? A. Dark night.

Q. You've testified, have you not, that you did not actually [903—59] observe the lines of the vessel during the period of time that you were there?

A. No, sir.

Q. Haven't you testified so?

A. I said that I saw the lines.

Q. Didn't you state, Mr. Lonche, that the only reason why you knew why these lines were not taut was

(Testimony of Frank J. Loncke.)

because these vessels were going half speed?

A. Yes.

Q. Not because you saw those lines? That's correct, is it?

A. I saw the lines. I saw the lines at times, not all the time.

Q. But now I want you to answer my question. Is it not a fact that you testified that the reason why you knew why those lines were not taut was because the vessels were going half speed?

A. I testified to that effect.

Q. And that's the only reason why you believe that those lines were not taut? A. Yes, sir.

Q. While you were sitting at the capstan were you able to observe all of the lines? A. Not all.

Q. Did you observe any? A. Yes.

Q. Which? A. The "Arcona's" especially.

Q. Any other? A. No, sir.

Q. Do you know whether or not there were other vessels there? A. I believe there were.

Q. Yet you testified a few moments ago that you knew there were others.

A. Well, I knew there were others because they had not gone away and the only one— [904—60]

Q. Then, what you said a few moments ago was not true, that you did not know whether or not there were other vessels there except the "Arcona"?

A. You talk so fast, Mr. Olson, I can't follow you.

Q. You testified a few moments ago that you did not know whether or not there were any other vessels attached to the "Celtic Chief" then at the time she came off.

(Testimony of Frank J. Loncke.)

A. I don't know but I knew there were others there because they hadn't gone away.

Q. Could you see the "Arcona"?

A. I could see the "Arcona" at times.

Q. Where were the lines of the "Arcona" attached, where were the lines of the "Arcona" at?

A. On the starboard chock.

Q. Both lines?

A. I don't remember whether it was both.

Q. Didn't you testify there were two?

A. I think there were two.

Q. Have you marked on this sketch which has been introduced in evidence, made by you, the position of the starboard chocks? A. Yes, sir.

Q. Will you mark on that, mark "Starboard chock" at the place where they were located? Have you designated where that was located?

(Witness marks on drawing.)

Q. C-h-u-k? A. Yes, sir.

Q. Now, you say that you were able to see the "Arcona's" lines from the capstan where you were sitting?

A. Well, no, not exactly from the capstan where I was sitting, but I could see them.

Q. And you could see both of them? [905—61]

A. I don't remember saying I could see both.

Q. Were there two or one there?

A. I believe there were two.

Q. You think that there were two?

A. Yes, sir.

Q. Do you believe that there were two because you remember there were two?

(Testimony of Frank J. Loncke.)

A. No, not because I remember.

Q. Why do you believe there were two?

A. Because I have heard it.

Q. That is the only reason?

R. I knew there was one. I was positive of that line. We always referred to that chock as the "Arcona's" chock.

Q. You say that you didn't see more than one line?

A. I don't remember.

Q. If there had been two lines there wouldn't you have seen them? A. I think I would.

Q. Sitting at the capstan you were able to see the "Arcona's" lines? A. At times.

Q. Did you see that there were two or was there only one line?

Mr. MAGOON.—Wait a moment. I object to that. The witness was asked again and again whether there was two or one line.

The COURT.—I allow the question.

Mr. OLSON.—What was your answer?

A. That I thought there were two.

Q. You thought there were two?

A. I told you I didn't remember whether there was one or two.

Q. But you do remember that that line was slack at times? A. Yes. [906—62]

Q. You were able to see well enough from the capstan? A. Yes.

Q. But you don't know whether there were two or one?

Mr. MAGOON.—I object to that; that's been asked three or four times.

(Testimony of Frank J. Loncke.)

The COURT.—That's already shown that there is one only.

Mr. OLSON.—Now, Mr. Loncke, I want to get at this point. Have you forgotten whether there were two lines or if there was one line? A. Yes.

Mr. MAGOON.—I object.

The COURT.—Objection overruled.

Mr. OLSON.—You've forgotten that?

A. Yes.

Q. But you haven't forgotten that those lines were slack?

A. No, sir, because that's a thing a person—

Q. You can remember that?

A. Sometimes there is lots of things I can see I remember, there is other thing I don't remember.

Q. Did you know at that time whether there was one line or if there were two?

Mr. MAGOON.—I object to that; it's answered already.

The COURT.—Objection overruled.

Q. Did you know at the time if there were two or one only? A. I don't remember.

Q. You don't know whether you knew at the time?

A. I don't remember that.

Q. I don't care what you remember now. I want to know if you knew at the time.

A. I may have known at the time, I suppose.

Q. Now, then, Mr. Loncke, at what position, with reference to the vessel, is the starboard chock of the "Celtic Chief"? [907—63]

Mr. MAGOON.—I object to that; it is unintelligible.

(Testimony of Frank J. Loncke.)

The COURT.—Overruled.

Q. Do you understand it or don't you?

A. Have I what?

Q. On what deck was the starboard chock through which the lines of the "Arcona" passed?

A. Where were they passing through?

Q. Yes. A. On the main deck.

Q. Now, where was the capstan located?

A. On the main deck.

Q. On exactly the same level? A. Yes.

Q. It wasn't eight feet lower?

A. It would be eight feet higher, if anything.

Q. Was it eight feet higher?

A. The capstan was only five foot, four and a half or five foot high, sir.

Q. Where is the quarter deck of the "Celtic Chief"? A. Right aft, sir.

Q. Aft of the capstan? A. Yes.

Q. Now, then, I want to ask you how high above the main deck is the quarter deck.

A. About seven feet above.

Q. About seven feet above the main deck. Now, were—are you sure that the starboard chock through which the "Arcona's" line or lines passed that you have testified to was on the main deck or quarter deck? A. Main deck.

Q. And you mean to tell the Court that you were able to [908—64] observe the "Arcona's" lines which came on the ship?

A. Yes, sir, because—here, I'll explain. The capstan is on the forepart, the "Arcona" was pulling on the starboard quarter and she had a search-light go-

(Testimony of Frank J. Loncke.)

ing; she would keep her search-light most of the time and from sitting on the capstan I could see at times.

Q. Why couldn't you see all the time?

A. Mostly all the time. I'm not going to keep my eyes on one thing.

Q. But you were not able to see other lines?

A. No, they were behind me.

Q. Now, you say the "Arcona" was pulling on the quarter? A. Yes.

Q. Isn't it a fact she was pulling directly astern? Answer that question.

A. At times she was and at times she was not, sir.

Q. Where was the "Intrepid's" position?

A. If I remember right, she was on the port quarter.

Q. At how big an angle?

A. I couldn't tell you that, sir. What do you mean by an angle?

Q. Was she pulling directly astern or further, far away from directly astern?

A. The "Intrepid" you say?

Q. Yes. A. She was on the port quarter.

Q. Was she very much to the port?

A. Well, I should say about two points to the port quarter.

Q. Was the "Intrepid" pulling the night the "Celtic Chief" came off?

A. I couldn't tell that, sir.

Q. You don't know? [909—65] A. No, sir.

Recess.

Q. The capstan, you say, was located on the main deck? A. Yes.

(Testimony of Frank J. Loncke.)

Q. And the chock through which the "Arcona's" line or lines passed was on the main deck?

A. Yes.

Q. And the quarter deck was aft of the capstan?

A. Yes.

Q. And did you say about seven feet aft of the main deck? A. Yes.

Q. How high was the rail of the main deck?

A. You mean the bulwarks?

Q. Everywhere. The bulwarks. How high was the side of the vessel above the main deck?

A. About four and a half or five feet.

Q. How high up on the side part of this four and a half or five feet was this chock through which the "Arcona's" wires came?

A. It wasn't high for it was on the deck.

Q. Absolutely on the deck?

A. On the main deck.

Q. You say that you observed the "Arcona's" line on account of the search-light playing on it. How were you able to do that from the capstan if the side of the vessel was nine feet high?

A. I told you the bulwark was five feet and I told you the capstan was four and a half feet. That makes nine feet.

Q. You were standing on the capstan?

A. Sitting on the capstan.

Q. Isn't it a fact that the side of the vessel was as high as the quarter deck above the main deck?

A. No, sir. [910—66]

Q. It is not? A. No, sir.

Q. Now, where were the lines of the Inter-Island

(Testimony of Frank J. Loncke.)

vessels attached to the "Celtic Chief"?

A. I don't remember that, sir; but I should think they were attached aft.

Q. You don't know where they were attached?

A. No, sir.

Q. Had you observed? A. Yes, sir.

Q. Where were they attached?

A. One was attached on the mizzenmast and I took particular pains to notice that because she left a nasty mark on it. That's why I noticed it more than anything else.

Q. Well, then, as a matter of fact, it was not because the vessels were going half speed that you knew that the lines were slack? A. What do you mean?

Q. You stated on direct examination that the reason why you knew the lines of the vessel, of the various vessels, were slack at the time the "Celtic Chief" came off, the reason you knew was that they were going half speed.

A. On account the lights was up too.

Q. And you knew they were going half speed?

A. Yes.

Q. How did you know?

A. Because the arrangement was made.

Q. But you don't know whether or not they actually followed that arrangement? A. No.

Q. As a matter of fact, you don't know anything about how fast she was going?

A. How would I know if I wasn't aboard?

Q. I am asking you if you knew of your own knowledge.

A. How could I tell you? [911—67]

(Testimony of Frank J. Loncke.)

Q. You don't know? A. No.

Q. Then you don't know that these various lines were slack because these various vessels were going half speed? A. You are talking too fast.

Q. The reason that you stated why you knew that these various lines were slack, namely, that the vessels were going at half speed, actually you did not know? A. I don't follow you.

Q. You stated, did you not, that you knew that the lines were slack because these vessels were going half speed? A. Yes.

Q. Now, you don't know because of that fact?

A. We knew that the vessel was going half speed.

Q. Not of your own knowledge?

A. Only what everybody else knew.

Q. You didn't know it of your own knowledge?

A. Not any more than anybody else done.

Q. Then you couldn't know, could you, that for that reason, that this lines were slack? A. No.

Q. That is what I want to get at. Then, as a matter of fact, your testimony with reference to the slackness of these lines is based on knowledge not your own?

A. Same as anybody else; merely because we knew that there was only one light up.

Q. As far as you know, all of these steamers might have been pulling full speed?

A. As far as I knew, yes.

Q. That is the fact so far as your knowledge is concerned? A. Yes.

Q. Then the testimony that you gave on direct that they were pulling at half speed was not based on

(Testimony of Frank J. Loncke.)

your knowledge [912—68] at all.

A. No, sir, because I wasn't aboard the vessel.

Q. Do you know how the "Arcona" was pulling, whether by her propeller or not?

A. Think she pulled by her propeller.

Q. Do you know?

A. I couldn't look across the stern of her.

Q. Don't you know the fact to be that she didn't use the propeller at all?

A. Didn't use the propeller?

Q. Exactly. A. How would she pull?

Q. Don't you know it to be a fact?

A. No, sir, I don't know if she did.

Q. She might have been pulling that way, so far as you know?

A. She might have been doing lots of things that I don't know.

Q. Was the Miller's anchor line at all times taut?

A. From the time they took up the slack she was taut, yes.

Q. And when did she take up the slack?

A. In the evening. I think they took up the slack somewhere in the afternoon.

Q. Before dark? A. Yes, sir, before dark.

Q. When you took your position—no. When you took your position at the capstan for the purpose of observing the position of the "Celtic Chief" about three-quarters of an hour before the "Celtic Chief" came off, how was she moving?

A. I told you, sir, the vessel was always working.

Q. I am asking you was she moving out seaward?

A. Not so you could notice it.

(Testimony of Frank J. Loncke.)

Q. When did she start?

A. When she jumped off all of a sudden.

Q. What were you looking at at the time? [913—69]

A. At the shore, one of the backstays and I had that backstay in line with two channel lights.

Q. Was that to the port or to the starboard?

A. On the starboard side. See where the capstan is there? Supposing this is the capstan I am sitting on and there is the channel. I was sitting down here.

Q. It was to the starboard then? A. Yes, sir.

Q. Did you keep your eye on that constantly?

A. Not constantly.

Q. Did you have your eye on that at the time she started?

A. I began to take particular notice at the time the heavier strain was on the wire.

Q. On whose wire?

A. Our wire; that is, Captain Miller's wire.

Q. You had your eye on Captain Miller's wire?

A. Most of the time, yes.

Q. Well, did you have your eye on that the time she began to move? A. I had a line on it too.

Q. Did you have your eye on it?

A. On the wire?

Q. Yes.

A. How could I have my eye on the wire and see the lights?

Q. Did you have your eye on the lights?

A. I had them all over.

Q. Where was Captain Miller's wire attached?

A. To the anchor.

(Testimony of Frank J. Loncke.)

Q. And where on the "Celtic Chief"?

A. Way forward. Show me the plan and I'll show you.

Q. Referring to Libellee's Exhibit 1, Lonske, the sketch which you have drawn, Mr. Loncke, will you indicate on [914—70] that where Captain Miller's wire was attached on the "Celtic Chief"?

A. Here's the foremast and here's those vessel. There was a lashing right across her from the foremast over to the—

Q. Where was the wire attached? A. The wire?

Q. Captain Miller's wire.

A. Right here. And this is called the purchase.

Q. And what was it attached on the "Celtic Chief"? A. Way forward here.

Q. Can't you tell me to what it was attached? Was it attached?

A. It was attached to a lashing that went between the bit here and the foremast.

Q. Then mark where it was attached.

A. Right about here.

Q. Put Miller's wire. Now, where's the wire?

A. Here's the wire going right over.

Q. You've marked Miller's foot lashing?

A. Yes.

Q. From the foremast to the bitts on the starboard side? A. Starboard side.

Q. Where was the line attached? Mark Miller's wire there on the sketch.

(Witness marks on sketch.)

Q. Now, how near were you to Miller's wire?

A. Right there on the capstan.

(Testimony of Frank J. Loncke.)

Q. How many feet from the wire?

A. Oh, about say about nine or ten feet.

Q. Nine or ten feet from that wire. Could you see that wire where it passed out of the "Celtic Chief"?

A. Right over the stern here.

Q. Over there?

A. Through a chock. We passed [915—71] through this shock out to the stern.

Q. Could you see that line astern of the vessel?

A. No.

Q. You couldn't and don't know what the condition was? A. No.

Q. Do you know whether or not there was a strain?

A. There may have been.

Q. Do you know from your own observation?

A. I heard, sir.

Q. You have explained to the Court, Mr. Loncke, that you took up or helped to take up the Miller Salvage Company anchor the day after when the "Celtic Chief" came off. How deep was the water at the place where the anchor was fastened to the bottom, or the anchor was laid?

A. I couldn't tell you accurately but I should judge six or seven fathom.

Q. That's how many feet?

A. Well, there's six feet to the fathom.

Q. About thirty-six or forty feet?

A. Let's see. Six feet to the fathom.

Q. About thirty-five or forty?

A. It would be more than that.

Q. This fathom had six feet?

A. That would be just about it, thirty-six or forty feet.

(Testimony of Frank J. Loncke.)

Q. Did divers go down after the anchor?

A. No, sir.

Q. How did you bring it up?

A. There's about nine hundred feet of anchor chain we dragged up and tied the thing up.

Q. Then you pulled the anchor up? A. Yes.

Q. How did you know there was an anchor?
[916—72] A. The water was clear.

Q. You could see down forty feet? A. Yes, sir.

Q. Were you able to observe that that rock was immovable? A. Yes.

Q. Do you know whether or not that anchor had been attached to that rock throughout the whole operations? A. It must have been.

Q. Do you know? A. How was I to know?

Q. Then you don't know? A. No, sir.

Q. As far as you know that anchor might have pulled from the time it was put fast or laid until the "Celtic Chief" came off. How do you account for that? It might have been?

A. No, sir, couldn't be.

Q. Had you observed the position where the anchor was laid before you went out there and pulled her up? A. No, sir.

Q. What was the distance between the blocks that were used in the tackle of the Miller Salvage Company?

A. The whole length of the ship between from the break of the poop as far as the foot lashing.

Q. About how many feet?

A. I couldn't tell you the length of the ship.

Q. Do you know how many feet, how many yards?

(Testimony of Frank J. Loncke.)

A. I could make a rough guess.

Q. Make your approximation.

A. I should judge the vessel was about three hundred and fifty feet long.

Q. Then what was the distance between the blocks?

A. From the break of the poop as forward as it could go.

Q. Can't you state how many feet?

A. I can make a guess.

Q. Give us your approximation.

A. Say about two hundred feet. [917—73] I am guessing. I can't exactly tell you that.

Q. But you were there on board all the time from the time the Miller Salvage Company began operating and certainly from the time the anchor was laid?

A. Not all the time.

Q. You were there Wednesday?

A. I was there Wednesday.

Q. From the time the anchor was laid?

A. Yes.

Q. What size lines were used in that tackle?

A. In all of them?

Q. What was the size of the line?

A. About six and a half or seven inches for the main tackle.

Q. In circumference?

A. That is circumference.

Q. Wire or manila? A. Manila.

Q. Had you observed the condition of those ropes?

A. Oh, yes. It was a new line.

Q. Was it seven or six and a half inches?

A. I guess it's seven. I don't think they go by half inch.

(Testimony of Frank J. Loncke.)

Q. What was the size of the smallest line?

A. The smallest was probably five inches at the last purchase.

Q. Now, then, I want to ask whether they were all operated together. You had three different sets of blocks and lines? A. Yes, sir.

Q. Did they all operate together upon the Miller Salvage Company line or did one operate upon the other?

A. They all operated on the Miller Salvage Company wire.

Q. Independent of each other?

A. All by means of each other.

Q. Did one operate on the other and the third on the little line? [918—74] A. Yes.

Q. You had first the Miller wire, line from the anchor attached to the first tackle, the second tackle attached to the first tackle, and the third tackle attached to the second tackle? A. Yes.

Q. So it was practically a line made up of the one line from the anchor next to the first tackle line attached to the second tackle line and then the third tackle line, all working on one another. What I have stated is correct, is it not? A. Yes.

Q. What was the condition of this five-inch line that you have spoken of? A. Good line.

Q. New? A. Practically new.

Q. It had been used, had it not?

A. Had been used before, I believe.

Q. It showed signs of that?

A. Not that I noticed.

Q. Did you *observed* it at all?

(Testimony of Frank J. Loncke.)

A. Yes, I did.

Q. Did the wire line pass through any of these blocks? A. The blocks? No, sir.

Q. How was the line from the first tackle fastened to the wire line?

A. By means of a big shackle.

Q. Was there any other rope that was attached to that wire except the rope from the first tackle?

A. Let me understand you.

Q. I am asking you if there was any other rope than the rope from the first tackle attached. [919—
[75] A. No.

Q. That was the only one?

A. The main tackle was fastened to the wire.

Q. How large was that rope from the main tackle?

A. About six and a half or seven inches.

Q. When was the rope from the second tackle attached to the main tackle?

A. When the first tackle was hauled taut as much as we could get on that that block was attached on her as close as we could get to the first block. You see, supposing this is the first block.

Q. Now, Mr. Loncke, will you kindly draw on this sheet of paper the main tackle first without reference to the boat at all. Just simply draw the blocks and the tackle.

(Witness draws.)

Q. Now, then, you have drawn the first set of main tackle. Now, then, indicate how the second tackle was fastened or located with reference to that and how it was attached. Draw it.

(Witness again draws.)

(Testimony of Frank J. Loncke.)

Q. Now, then, you have *draw* the second tackle. Now, draw the third tackle with reference to the second tackle. Now, will you mark, write the first tackle, the main tackle that you drew, the words "main tackle."

(Witness writes.)

Q. Now, the third tackle, write that in there also.

(Witness writes.)

Q. Now, does that paper indicate—is that a proper diagram of the tackles as they were used on the "Celtic Chief" in operating upon the Miller Salvage Company's line?

A. As near as I can draw it; yes.

Q. Can you draw on that diagram the foot lashing? [920—76]

(Witness writes.)

Q. Where was the main tackle attached to the wire, anchor wire? A. Right here. (Indicating.)

Q. Indicate where the anchor wire line was.

(Witness draws.)

Q. Write anchor wire line at the place where you have drawn this wire line.

(Witness writes.)

Q. Now, I'll ask you, Mr. Loncke, how many times the rope which formed a part of the main tackle went back and forth through the block of the main tackle? A. Three times.

Q. How many times did the rope forming a part of the second tackle go back and forth through the block of the second tackle? A. Three times.

Q. How many times did the rope forming a part of the third tackle go back and forth through the

(Testimony of Frank J. Loncke.)

block of the third tackle? A. Three times.

Q. Now, will you indicate on this diagram where the line ran to the gypsy of the donkey-engine of the "Celtic Chief"?

(Witness draws.)

A. What I want to do is to turn this all around. I want to get this tackle on this side.

Mr. MAGOON.—That is referring to the diagram you have made.

A. Yes, sir. The mistake is here, sir. It is supposed to be the stern of the vessel here. I've got all my wires on that side so I want to shift to the other so my last fall goes to the second block and goes to the gypsy-head. I've got to cross my fall to the other falls. To a sailor it won't look well.

Mr. OLSON.—Do it as it should be done with reference to this diagram. The tackle which you have designated as the main tackle [92—77] was below the other two tackles, the second tackle above the main tackle?

A. The second tackle above the main tackle.

Q. And the third tackle above the other?

A. Not exactly above.

Q. Will you indicate how the third tackle, the rope from the third tackle was attached to the gypsy?

A. By means of what they call a snatch block. It's one of those blocks you can pry it in two. It opens up.

Q. Where was that? A. Right down the foot.

Q. Write snatch block where you have drawn that article.

(Witness writes.)

(Testimony of Frank J. Loncke.)

Q. Now, then, then your line came from the third tackle to the snatch? A. Yes.

Q. Then where did it come from?

A. From the snatch to the gypsy-head.

Q. Where was the snatch block attached?

A. To the foot lashing.

Q. Draw the line from the gypsy-head to the snatch block.

A. It doesn't look ship-shape because you see—

Q. Write gypsy at the place where you have drawn.

(Witness writes.)

A. I'd like to explain here this line is here. This line is running right across there. That isn't ship-shape. It ought to be in line with this.

Q. So the diagram is not exactly accurate in describing the lines coming from one to the other?

A. Yes.

Mr. OLSON.—I offer it in evidence and ask that it be marked, "Libellee's Exhibit 2, Loncke." [922—78]

The COURT.—So ordered.

Q. Now, then, the line, the rope, as I understand it, that formed part of the main tackle was six or six and a half inch manila rope?

A. I said six and a half or seven.

Q. How large was the rope from the second tackle?

A. About six inches; five and a half or six.

Q. How large was the— And that was manila rope also? A. Yes, all manila rope.

Q. How large was the rope from the third tackle?

A. About four and a half or four inches.

(Testimony of Frank J. Loncke.)

Q. That was a manila—

A. Yes. It was a five inch rope.

Q. The line running from the last tackle to the gypsy?

A. Same size, sir. Same block, same fall going there.

Q. What was the line that you observed while you were sitting at the capstan during the three-quarters of an hour before the "Celtic Chief" came off? What line?

A. Why, the purchase, the main block.

Q. That is the line, the rope formed a part of the main tackle? A. Yes.

Q. You observed that that was taut?

A. Yes. I would like to explain, I was standing there just in front of me was just about where the wire and the first block ran together.

Q. How far was it from the block where the wire line was attached? How far was it to the particular chock through which the wire line passed?

A. That's away aft. That is, I should judge, about seventy-five feet.

Q. This block then formed a part of the main tackle where the wire line was attached. Was that at the capstan where [923—79] you sat?

A. Close to it where the strain was on.

Q. Where was the other end of the main tackle?

A. Fast to the foot lashing.

Q. Forward? A. Forward, yes, sir.

Q. About two hundred feet forward.

A. Down to where the foot lashing was, as near as I could judge the distance; yes, sir.

(Testimony of Frank J. Loncke.)

Q. Now, you testified on direct examination that the "Arcona's" line—you testified that the "Arcona's" line was fairly taut that sometime it had a strain on and sometimes it did not. That was your observation? A. Yes.

Q. Now, from where you were sitting could you see the "Arcona"? A. I could at times.

Q. How could you make her out?

A. On account of the vessel stirring.

Q. Did you see her lines?

A. I saw the stern of the vessel herself at times. Most of the times I saw the lines.

Q. How did it come that there was no bight—you did not see the whole of the Miller anchor line?

A. I saw where it met the tackles.

Q. You didn't know whether that formed a bight?

A. No, sir. It couldn't possibly have. I knew that for a fact.

Q. You didn't see it?

A. No, sir, but I knew for a fact there could not be no bight on that.

Q. You couldn't know of your own observation?

A. I went aft once and I saw it was taut.

Q. During the forty-five minutes?

A. I didn't say forty-five minutes. I told you about half [924—80] an hour.

Q. You went aft once—was it before or after?

A. Before.

Q. And the Miller line was taut?

A. Not quite as taut when I was taking my observation.

Q. How do you know how taut it was?

(Testimony of Frank J. Loncke.)

A. Couldn't I tell?

Q. How? A. By the strain.

Q. Could you see the line?

A. Not while I was sitting on the capstan watching the wire that was taut.

Q. Do you know where that steel wire that was used by Captain Miller in connection with that anchor, is at the present time?

A. If I know where it is?

Q. Yes.

A. I believe it is aboard the "James Makee." I don't know, sir.

Q. Could you produce a sample of that?

A. If Captain Miller will give me a sample.

Mr. OLSON.—I'll ask counsel if they are willing to give me a sample of that wire.

Mr. MAGOON.—That wire at present, in all probability, is holding the same anchor for the dredger "Californian" at Pearl Harbor.

Mr. OLSON.—I've asked you whether you are willing to produce a sample or not.

Mr. MAGOON.—We can't produce it at this time. We will simply state that that wire cable has been sold to Dillingham and is now holding the same anchor at Pearl Harbor.

Mr. OLSON.—Q. What was the state of the water on Monday morning on the day after she went aground? A. Moderate swells, sir. [925—81]

Q. Any wind blowing?

A. Not more than you generally get; regular trade winds.

Q. Fair weather? A. Fair weather.

(Testimony of Frank J. Loncke.)

Q. How was it Tuesday? A. About the same.

Q. Monday night?

A. I told you about the same.

Q. About the same on Tuesday?

A. Told you that.

Q. Tuesday night? A. About the same.

Q. Wednesday?

A. Same. May be a heavier swell.

Q. The weather fair?

A. Just wait a moment. It was rough.

Q. Was it blowing harder than it is to-day?

A. I haven't felt any wind here this morning yet, sir.

Q. Was it a moderate breeze?

A. Moderate breeze.

Q. There was no storm?

A. There wasn't a gale all that day.

Q. Wednesday night? A. No, sir.

Q. In other words, there was fair weather except that it was raining some?

A. Yes, fairly good weather.

Q. No storm? A. No gale of wind.

Q. Do you know whether there was any stormy weather after that time?

A. Yes, we've had storms since.

Q. I mean—how long after?

A. I don't remember.

Q. Did you help to lay the Miller Salvage anchor?

A. No, sir.

Q. You didn't see it laid? A. No, sir.

Q. What is the condition of the reef at that place?
Of what [926—82] does it consist?

(Testimony of Frank J. Loncke.)

A. Coral mostly.

Q. Do you know that location pretty well?

A. Fairly well; yes.

Q. Where the "Celtic Chief" was aground, will you describe as well as you can the condition of the bottom?

A. That's all coral around there and sand.

Q. Is the coral hard?

A. Some places hard, some soft.

Q. Was it hard at that point?

A. It must have been pretty hard the way the ship was pounding. It was hard. The place where she was she *through* all white stuff up. Looked as though the coral was being crushed.

Q. Would you say that it was hard rock or simply coral? A. Coral rock.

Q. Did you know whether or not the "Celtic Chief" hurt her bottom? A. No.

Q. After lying there those three days?

A. No, I couldn't tell you that.

Q. When did you observe that the "Celtic Chief" was going further aground up to the time that the Miller Salvage Company placed its anchor line aboard?

A. Well, this was on Tuesday, I believe. If I remember well, it was the day before she came off and I had gone into the aft of the port side for a little while, and I remember well that on Monday morning when I came down I took a mark from the Young Brothers telephone office and the after part of the Inter-Island ship in line and that time I could see just about the mainmast of the "Celtic Chief" and

(Testimony of Frank J. Loneke.)

I notice on Tuesday that she was out of sight.

Q. How much farther aground would you say that she went from the time that the Miller Salvage Company first brought boats out there on Monday until the time that the [927—83] anchor line was put aboard the "Celtic Chief"?

A. I couldn't tell that.

Q. You have no idea how much farther aground she went when the Miller Salvage Company first began to lighter cargo? A. On Monday.

Q. From the "Celtic Chief," I mean.

A. Yes, that was Monday.

Q. How many loads did she take from the "Celtic Chief"? A. Two, that I know.

Q. What were the two boats?

A. One was the "Kaimilou," the other was the "Concord."

Q. How large are those two boats?

A. One was one hundred and twenty-five as near as I can judge; that's the "Concord" and the other, "Kaimilou," she's much larger.

Q. How many tons of cargo on the "Concord" prior. A. I believe about one hundred tons.

Q. Do you know if she had a full cargo aboard?

A. I had no way of saying that.

Q. What about the "Kaimilou"?

A. She had a good load.

Q. How long did it take to get the "Concord" loaded? A. It took night and—

Q. How long?

A. I don't remember how long it took.

Q. But the Miller Salvage Company continued to

(Testimony of Frank J. Loncke.)

lighter cargo on Tuesday? A. Yes.

Q. Do you know whether or not, how much the Miller Salvage Company lightered that time. Do you know any of the vessels the Miller Salvage Company had out there?

A. The "Kaimilou." [928—84]

A. I don't remember because I did not go out until evening.

Q. Do you know whether the Inter-Island had any boats there lightering cargo? A. Yes.

Q. When? A. Wednesday.

Q. Do you know whether or not they had any on Tuesday?

A. I don't remember that but I believe they had.

Q. You don't know? A. No, I am not sure.

Q. What were these hundred men doing on Wednesday that you have spoken of came out there with the "Kaimilou" and the "Concord"?

A. Working cargo, I suppose.

Q. They were doing that on Wednesday?

A. Yes.

Q. You don't know what they were doing?

A. Not sure.

Q. Do you know whether or not they were working cargo at all?

A. Yes, I know they worked cargo because they loaded up the "Concord."

Q. On Wednesday? A. No.

Q. Tuesday? A. Monday.

Q. And they also worked on Tuesday filling the "Kaimilou," is that correct?

A. That's as near as I can judge.

(Testimony of Frank J. Loncke.)

Q. Do you know whether they were working on Wednesday?

A. There was lots of work on the tackles.

Q. The hundred men were working on the cargo?

A. No. [929—85]

Q. What were they doing?

A. Working, I suppose.

Q. Don't you know?

A. I know most of the boys were working on the tackle.

Q. Most of this hundred? A. Yes.

Q. What were they doing? A. Heaving in.

Q. What did they use?

A. Hand-power until they got to the capstan.

Q. After they got the lines, second and third tackle attached to the capstan what were those men doing? A. Working cargo, I think.

Q. Well, do you know?

A. No, I ain't sure. It takes quite a lot of men to work around those tackles.

Q. As a matter of fact, you don't know how long they were working on those tackles? A. No, sir.

Q. There might have been half the lot? A. Yes.

Q. There may have been twenty-five?

A. There was more than that.

Q. Did you help to heave in the tackles?

A. Yes.

Recess.

Q. Where you sat on the capstan, could you see directly over the stern of the vessel?

A. Not over the stern.

Q. You could not—could you see over any part of

(Testimony of Frank J. Loncke.)

the quarter deck? A. Right in the corner, yes.

Q. Just in the corner? A. Yes. [930—86]

Q. But you couldn't see anything back over the stern of the vessel? A. Not right aft, no, sir.

Q. Why couldn't you? A. I was—

Q. You mean the railing of the quarter deck was too high? A. The poop itself was too high.

Q. Could you see over the railing? A. Yes, sir.

Q. How high was the railing?

A. About four and a half or five feet.

Q. You mean the railing over the quarter?

A. No, I couldn't.

Q. How high was that railing?

A. About same height as the bulwarks, about four feet.

Q. That railing then, in addition to the quarter deck, would make about ten feet above the main deck, would it not, or eleven feet.

A. Eleven feet.

Q. How far around the quarter deck does that railing extend? A. All around the quarter deck.

Q. How far from the quarter deck was the capstan? A. I should judge about twenty feet.

Q. With reference to the quarter deck, where was the starboard chock through which the "Arcona's" line or lines passed? A. Right down forward.

Q. In other words, the chock was directly below the break of the quarter deck? A. Yes.

Q. From that chock up to the top of the rail of the quarter deck would be ten feet? [931—87]

A. The rail is not solid. The rail is just like this. Supposing this is the quarter deck. You see there

(Testimony of Frank J. Loncke.)

would be a stanchion like this and this place would be open.

Q. However, up to the quarter deck was solid, was it not? A. No, sir. Up to the quarter?

Q. Up to the quarter deck from the main deck?

A. No, sir, I said the quarter deck was about seven feet high from the deck, to other deck with the bulwarks. It is nearly four and a half or five feet.

Q. Right above up on the poop?

A. Up on the break of the poop.

Q. That would be seven or eight feet above the main deck?

A. No. I said six or seven feet. There is a little ledge hangs over the main deck and a person could stand on there.

Q. Couldn't a man of six feet stand on the quarter deck and have some space?

A. Just a little over six feet.

Q. Wouldn't it be seven feet?

A. I hardly think so because going into the cabin a person has to stoop going from the door.

Q. Well, then, from the starboard quarter chock to the poop deck, would be about seven feet, but not more than seven feet? A. Not more than that.

Q. It would be seven feet?

A. About that, yes.

Q. Where is the port chock?

A. On the opposite side.

Q. In a place corresponding to the point where the starboard chock is? A. Yes.

Q. What kind of a line was it that the "Arcona" had attached to the "Celtic Chief"? A. A wire.

(Testimony of Frank J. Loncke.)

Q. What size?

A. I judge about inch and a half or two inch.

[932—88]

Q. In diameter? A. Yes.

Q. Do you remember what kind of a wire it was?

A. It is that flexible wire they use.

Q. Steel wire? A. That's what I think it is.

Q. Did you examine it? A. No, sir.

Q. Do you know whether it was twisted?

A. All wires are twisted.

Q. Single twist or double twist?

A. What do you mean by that?

Q. You don't know the difference? Don't you know that the "Arcona" had a wire cable of about the same kind that extended to the starboard chock which came to the "Arcona" through the port chock of the "Celtic Chief"?

A. I don't know about that.

Q. It might have been?

A. I have heard about it since.

Q. There is no reason why there shouldn't be one as far as you know?

A. No, sir; there is no reason.

Q. Do you mean to tell the Court, Mr. Loncke, that sitting on the capstan with the quarter immediately astern of you, not more than twenty feet away from you, that you could see the line of the "Arcona"?

A. Yes, sir.

Q. You could see over a seven-foot obstacle?

A. I didn't look over a seven-foot obstacle.

Mr. MAGOON.—I object to that; it's been asked and answered so many times.

(Testimony of Frank J. Loncke.)

The COURT.—I allow the question.

Q. How could you see over a seven-foot obstacle, the side of the vessel?

A. To see the “Arcona’s” wire I didn’t have to look over that, sir. I only had to look four and a half feet.

Q. Haven’t you testified to the Court that the side of the [933—89] vessel was seven feet?

A. Yes, but the wire was going through the side chock which is on the main deck, not on the quarter deck.

Q. You testified to the Court that the chock through which the “Arcona’s” line went was directly before the break of the poop on the main deck?

A. Supposing this is the chock here; here’s the quarter deck, the wire is going through this quarter deck. I am sitting on this capstan and this vessel is stirring back and forth.

Q. Did the “Arcona’s” wire go through the quarter deck chock or through the main deck chock, sir, and didn’t you have to look over a seven foot obstruction?

A. I didn’t look over the seven-foot obstruction. I was looking over the main bulwarks.

Q. At what angle was that wire to the “Arcona”?

A. She was at different angles at times.

Q. How many points?

A. She wasn’t always at the same angle.

Q. What was the biggest angle? How many points to the quarter?

A. I should judge five points to the starboard quarter.

(Testimony of Frank J. Loncke.)

Q. So that you saw the "Arcona's" line as far as five points to the starboard quarter of the "Celtic Chief"? A. Yes.

Q. When was that? A. That was Wednesday.

Q. Wednesday afternoon? A. Yes, sir.

Q. Wednesday night? A. Yes.

Q. Did you see it Wednesday night that far?

A. Yes, when the lights was flashed on there.

Q. When was that? When the "Celtic Chief" was coming off? A. When it was dragged.

Q. Only time?

A. No, sir. While they were pulling on it. [934—90]

Q. The day the "Celtic Chief" came off?

A. Yes, sir.

Q. Did you see the whole length of that wire?

A. Yes, practically so.

Q. At the same time you couldn't see that there was another wire going to the port chock?

A. Not that I remember, sir.

Q. Why do you say that you think that the Miller anchor was an anchor weighing about six tons?

A. Comparing the size; comparing to other anchors.

Q. Have you ever seen an anchor that you know was a six-ton anchor?

A. The anchor Captain Miller has is the largest I've seen.

Q. Might it be less than six tons?

A. The way I judge, I saw a four ton anchor that looked to be a pretty good sized one. I saw the Miller Salvage anchor and I thought it was twice the size

(Testimony of Frank J. Loncke.)

so I came to the conclusion she was a six tonner.

Q. Did Captain Miller or the Miller Salvage Company's tackles break at any time while they were operating there? A. No.

Q. What was the nearest that the blocks of the three tackles came to each other in the course of the pulling? A. They came together several times.

Q. They came fully together?

A. Yes, sir, then we had to put stops on the second tackle and free the blocks again.

Q. When was that?

A. That was the afternoon, evening.

Q. The afternoon? A. Evening.

Q. What time? A. I couldn't tell.

Q. How near to the time she came off?

A. That was quite a while. [935—91]

Q. Was that while you were heaving in and making the line taut? A. Yes.

Q. Not during the pull?

A. Not during the last pull.

Q. You took the three purchases like that many a time before you got a good strain on the first tackle? Didn't you testify on direct that the tackles were not touched at all from the time they were brought to a strain?

A. No, I don't believe I did. If I did I must have made a mistake because I know it takes a long time to tighten up that tackle.

Q. You were there the whole time?

A. Yes. Wednesday, yes, sir.

Q. About what time did you begin to tighten up the tackle? A. In the evening after dark.

(Testimony of Frank J. Loneke.)

Q. The anchor then, was not actually in use until after dark?

A. No, sir, she had a strain on there all the time.

Q. I'm asking when you first started to get the strain?

A. As I told you, I put it out Wednesday morning.

Q. How long did it take until you got your strain?

A. It took quite a while.

Q. How long? A. I couldn't tell you.

Q. You were there, were you not? A. Yes.

Q. Helping? A. Yes.

Q. Were you working on those tackles at dark?

A. Yes, sir. Not until dark.

Q. How long before dark?

A. I couldn't tell you how long before dark.

Q. Don't you remember? A. No, sir.

Q. What did you mean by telling the Court on direct that the tackles were not touched at all from the time that they were made taut until the final pull?
[936—92]

Mr. MAGOON.—I object to it in that form.

Mr. OLSON.—I'll withdraw the question. What did you mean in telling the Court on direct that the tackles were left alone from early in the afternoon of Wednesday until that night? What do you mean by that?

A. Supposing I said they were left alone before—

Q. Do you wish to change that?

A. As far as I remember, it seems to me there ought to have been some work on those tackles.

Q. I am asking what you actually did. Can't you answer?

(Testimony of Frank J. Loncke.)

A. I guess we pulled on it all right, as near as I can remember, sir.

Q. I am not asking what you are guessing either. I am asking you what you did. Now then, were you or were you not heaving in on the tackles on Wednesday afternoon? A. Yes.

Q. After you first put the strain on the Miller line?

A. Yes, we were.

Q. How long did that continue?

A. Quite a while, sir.

Q. Did you stop before dark?

A. Yes, sir, I believe we did.

Q. How long before dark?

A. I couldn't tell you that.

Q. Then you were wrong in saying on direct that those tackles were left alone from early in the afternoon until that night?

A. Yes, I guess I made a mistake.

Q. Did you make a mistake or did you not?

A. I believe I made a mistake.

Q. Are you entirely clear in your mind?

A. I believe I am clear now, sir. It seems to me we were pulling on those lines.

Q. Heaving in on them all the time? [937—93]

A. Working on them all the time; not heaving in on them all the time; there is lots of work to be done on those tackles.

Q. When was the donkey-engine of the "Celtic Chief" first used by the Miller Salvage Company?

A. That night.

Q. About what time?

A. That was the time we gave that final pull, sir.

(Testimony of Frank J. Loncke.)

Q. Where was the line of the third tackle attached prior to using the donkey-engine of the "Celtic Chief"?

A. I had taken a turn forward around the—around the place where the foot lashing was.

Q. It was attached there?

A. You couldn't turn on there.

Q. Didn't you use the hand capstan?

A. Not on the third tackle; on the second tackle.

Q. That was before the third tackle was put on?

A. I think so.

Q. Was that kept attached to the hand capstan?

A. Before we put the third tackle on.

Q. And when did you put the third tackle on?

A. Somewhere in the afternoon.

Q. Was anyone turning the hand capstan after you finally got the line to the strain?

A. We used the hand capstan to tighten up the second tackle.

Q. When was that used?

A. In the afternoon, sir.

Q. More than once?

A. I believe we used it more than once, yes.

Q. How often would you say?

A. I couldn't remember how often.

Q. Didn't you testify on direct, Mr. Loncke, that the "Arcona" did have two wires extending to the "Celtic Chief"?

A. Yes, I thought the two lines came through the chock; yes. [938—94] Those two lines. I thought there were two lines coming down through.

Q. Now, is that your present belief? A. Yes.

(Testimony of Frank J. Loncke.)

Q. And they both came through the same, through the starboard chock? A. Yes.

Q. Were you on the "Celtic Chief" at the time that the wire line which the "Arcona" originally placed aboard the "Celtic Chief" parted? A. No, sir.

Q. Where were you at that time?

A. In the launch.

Q. Was that before or after noon of Wednesday?

A. I believe it was in the forenoon.

Q. You didn't see the parting of that line?

A. No, sir.

Q. Did you see when the "Arcona" replaced that line or attached lines to the "Celtic Chief" again after that parting?

A. No, I don't remember that.

Q. When you went aboard the "Celtic Chief" was the "Arcona" fully attached to the "Celtic Chief"?

A. When was that?

Q. On Wednesday?

A. Yes, I believe she was attached then.

Q. Was it after that that the Miller Salvage Company placed its anchor?

A. The anchor was placed before that.

Q. When was the anchor line made taut?

A. From the time the anchor was placed. Takes time to rig up the tackle.

Q. You helped in making that taut? A. Yes.

Q. On Wednesday, I ask you, was the anchor from Miller's [939—95] anchor made taut after the "Arcona" had placed her lines aboard the "Celtic Chief"? A. I believe so; yes.

Q. You say that the "Celtic Chief" was shifting

(Testimony of Frank J. Loncke.)

considerable, rocking? A. Rocking.

Q. From one side to the other Wednesday night so that you were able to see the "Arcona's" lines at times? A. At times, yes.

Q. Was that a very considerable change of position she would make?

A. Yes, I think it is quite a bit.

Q. More that night than during the day?

A. Practically more.

Q. What made you tell the Court, then, that after the Miller line became taut this side to side movement ceased? A. That's quite true.

Q. How did you see the "Arcona" wire on account of it?

A. Because I wasn't sitting on the capstan.

Q. Where were you?

A. Moving around the deck.

Q. Why did you tell the Court you was sitting on the capstan all the time?

A. I was sitting on the capstan most of the time.

Q. You said, first, that you sat on the capstan all of the time; now you state you wasn't; first you said that the "Celtic Chief" was practically still on Wednesday night on account of the Miller line; now you say she shifted out from one side to the other.

A. The quickest way to get out of that, I didn't stay on the capstan all the time, but I believe I was sitting on the capstan; one time I was sitting for fully a half a hour; a time previous to that why I was walking about. [940—96]

Q. That was why you were able to see the "Arcona"? A. Most of it.

(Testimony of Frank J. Loncke.)

Q. So you wasn't sitting on the capstan all the time?

A. At times I did. You must remember that the "Arcona" was stirring, too.

Q. So now you think it was the "Arcona" that was shifting from place to place. Was Miller's anchor shifting from place to place?

A. I hardly think it was.

Q. The "Arcona" was anchored in the same way?

A. I don't know whether she was anchored or not.

Q. She might have been?

A. She might have been.

Q. How much rope would you say was hove in on the Miller's tackles from the time you started to pull on the last pull Wednesday night until the "Celtic Chief" actually came off?

A. From the break of the poop to the gypsy. From the break of the poop as far as the capstan, little near, little forward.

Q. How many feet of rope?

A. Now, that's a hard question to answer. I could give you the length of the block, the distance the block travelled.

Q. How far did the block travel?

A. About twenty-five or thirty feet.

Q. That's the main block? A. Yes.

Q. How far did the second block travel?

A. About three times as much.

Q. How far did the third block travel?

A. About three times as much again. That's why we had to take that block off and overhaul it again and put the stops on the main block.

(Testimony of Frank J. Loncke.)

Q. How many times did you do that in the course of the forty-five [941—97] minutes?

A. In the last pull.

Q. Yes. A. We didn't have to take it out.

Q. How many feet of rope did you pull on the last pull? A. Pulled about twenty feet.

Q. And the second block about sixty feet?

A. Yes.

Q. And the third about one hundred and eighty?

A. Oh, gee! No. That would be more than the length of the ship.

Q. How far did the main block travel?

A. About twenty feet.

Q. Wouldn't the third block have to travel one hundred and eighty?

A. I think if I could remember well that second block was almost two blocks; she had got to travel about twenty or thirty feet.

Q. You know, do you not, that in order that the block of the main tackle might travel twenty feet that the block of the second tackle would have to go sixty feet? A. I know that.

Q. Don't you know that the block of the third tackle would have to travel as far again? That, you say, you thought was probably one hundred and eighty?

A. I told you about twenty feet, the first block.

Q. So you do know it travelled one hundred and eighty? A. I don't know.

Q. Did they stop the engine and readjust those tackles? A. Before the final pull?

Q. Well, during the final pull? A. No, sir.

(Testimony of Frank J. Loncke.)

Q. I want you to explain to the Court how it was that the block of the first tackle was able to travel twenty [942—98] feet without readjusting the third tackle?

A. When the last strain was on there before giving the final pull, when we had a big strain on the big tackle *were* put foot lashings on the main tackle and overhauled all the blocks, and put them as far forward as we could.

Q. Isn't it a fact that you don't know how far that main block did travel?

A. When it came to the final pull it didn't hardly travel.

Q. How far did she travel?

A. Very little. I was sitting one place and I had a line on the wire. She didn't travel very far.

Q. Two or three feet?

A. I couldn't say how far.

Q. Did you observe that she travelled more than two or three feet?

A. Yes, I would have noticed if she travelled more than that.

Q. How much more?

A. I say I would have noticed.

Q. But you didn't, though?

A. Not during the last pull.

Q. That's during the last forty-five minutes?

A. That's the last pull.

Q. What do you call the last pull?

A. That is when the strain was so tight that the donkey-engine couldn't pull any more.

Q. Now, then, Mr. Loncke, I want you to tell us

(Testimony of Frank J. Loncke.)

how far the block of the main tackle travelled during the last forty-five minutes while you were there watching? A. I told you about twenty feet.

Q. She did travel twenty feet during that time?

A. During the last forty-five minutes. And I've told you the same time that that block was overhauled again.

Q. It was overhauled?

A. I believe it was, sir.

Q. Do you know it was?

A. You know it's quite awhile ago since it happened; there is lots of little things [943—99] happened I don't remember.

Q. You seem to remember very clearly that the main block travelled twenty feet?

A. There is lot of things that you'll never forget.

Q. That's one of them? A. One of them.

Q. Do you know what kind of an engine this donkey was?

A. No, sir. It was just one of those ordinary engines.

Q. Did you examine it? A. Yes, I saw it.

Q. You don't know how much force she was capable of exerting? A. No, sir.

Q. Are you employed by the Miller Salvage Company at the present time?

A. No, sir; I am employed by Mr. Low, sir.

Q. Mr. Eben P. Low is one of the stockholders of the Miller Salvage Company?

A. No, sir. They dissolved partnership.

Q. They have dissolved? A. Yes.

Q. How long ago?

(Testimony of Frank J. Loncke.)

A. One year this coming June, sir.

Q. It will be one year in June? A. Yes.

Q. Since Mr. Low withdrew from the Miller Salvage Company, you have been working for him?

A. Yes.

Mr. OLSON.—I think that's all.

Cross-examination on Behalf of Libellants, Inter-Island Steam Navigation Co. et al.

Mr. WARREN.—Speaking of the time you first went out there, Mr. Loncke, did you take or make any observations as to the depth of the water around?

A. They took several soundings from the stern of the "Celtic Chief," yes.

Q. Do you know what those soundings were?

A. No, sir, I don't know exactly.

Q. Do you know what the draft of the ship is?

[944—100]

A. I could guess at it.

Q. What is your guess?

A. I should think a vessel like that would draw twenty-six or twenty-eight feet aft.

Q. How far above her floating draft do you think she was; that is, how hard aground?

A. I couldn't tell you that.

Q. Would it be one foot or six feet?

A. I think it would be two or three feet.

Q. Do you know what the depth was at her stern?

A. You couldn't see the depth of the water on account of the vessel working up and down, the water was soiled and the vessels turned up the water all the time.

(Testimony of Frank J. Loncke.)

Q. Do you know how deep the water was at the bow?

A. No, sir. She was pretty high at the bow.

Q. About how high?

A. You could see quite a bit of the blue tip.

Q. How much more water do you think would be necessary to float her? A. Six or seven feet.

Q. How far astern was the Miller anchor? The whole length of the wire?

A. Yes, nine hundred or ten hundred feet.

Q. Was that pretty well directly astern?

A. Yes.

Q. Any more towards one quarter than another?

A. No, I don't believe so.

Q. And that line was—what was the direction of that line in respect to the reef there?

A. At right angles.

Q. And how deep did you think it was where the anchor was?

A. I said this morning six or seven fathoms.

Q. That would be thirty-five or forty feet?

A. Yes, sir. [945—101]

Q. The water was clear, you say, the time you took up the anchor? Could you see what the bottom was like? A. Kind of sand and black rocks in it.

Q. That morning what was done with the wire running from the anchor? A. It was all piled up.

Q. That wire was piled up?

A. Supposing this is where the anchor was and the wire would be lying down here. We found a ——— here and got her.

Q. Could you see that along the bottom?

(Testimony of Frank J. Loncke.)

A. You could see where it was.

Q. What kind of bottom was it along there? Was the water clear now? A. Yes.

Q. What was the general contour of the bottom?

A. Sandy.

Q. Was it up and down?

A. No, it was pretty well level. Pretty level on the bottom.

Q. Do you think it—you say pretty level bottom; generally even? A. Generally running up.

Q. Gradual incline right along?

A. You see the water—the formation is from there it seems to work right to the reef. Some places there will jump around. That place you will find places about two fathom water and you go little further you find three or four fathoms.

Q. Would that be a level in the direction of the reef?

A. That would be more like an incline, sir.

Q. Do you know whether or not there was any wire line or any line to the “Arcona” from the “Celtic Chief” going through the [946—102] port quarter chock?

A. No, sir, I don’t know a thing about that.

Q. If there had been, could you have seen it from where you were?

A. Hardly. I had my back to it. There were so many wires around there that I didn’t know whether it belonged to the “Arcona.”

Q. You don’t know whether or not the “Arcona” had a line on that? A. No, sir.

(Testimony of Frank J. Loncke.)

Q. Did you see any line going through the port quarter chock?

A. There was not a chock aboard the ship but what there was a wire on there barring the one amidships.

Q. You really didn't know definitely to what vessels the different lines belonged?

A. No, sir, barring the one, the one on the starboard side. I saw that one belonged to the "Celtic Chief," to the "Arcona."

Q. You are pretty sure of that?

A. I think so.

Q. You think it might have belonged to some other boat?

A. Hardly. It seems to me the way I have been explaining myself when I was looking I could see the "Arcona" right along the wire.

Q. You wouldn't venture to say anything about any other wire, as to what ship it belonged—what steamer? A. Hardly, sir.

Q. Now, if there were two wires of the "Arcona" through the starboard chock, was there any difference in their size?

A. I couldn't tell that, sir. I wasn't close enough to it. Didn't pay any attention to it.

Q. Didn't pay any attention to it?

A. Not so as to know.

Q. Are you sure that the two wires went to the Arcona? A. No, sir, I am not sure. [947—103]

Q. There might have been only one line to the "Arcona"?

A. As far as I know; as far as I remember.

(Testimony of Frank J. Loncke.)

Q. You think if there had been two you would have noticed?

A. I believe I would have noticed it, yes, sir.

Q. Do you know how many vessels in all were pulling or supposed to be pulling out in front of the "Celtic Chief" that night—astern of the "Celtic Chief"?

A. I don't exactly know how many ships, but I believe there were about four or five.

Q. You don't know whether or not any of them were pulling or whether they were pulling at all?

A. That night?

Q. That last night?

A. I don't know whether they were pulling or not. You mean the last moment?

Q. The last pull?

A. As I said before, the vessels were pulling half speed. I said that I thought that they were pulling half speed on account of the light being up in the mizzen rigging.

Q. When the "Celtic Chief" came off the reef, what did you do then?

A. Let go our tackles. I, personally?

Q. Yes. A. I stayed on there. Had to stay.

Q. What part of the "Celtic Chief"? Where did you go? A. Aft, sir. Went aft tending the wire.

Q. What wire? A. The Miller Salvage wire.

Q. How long did that take?

A. It took some time.

Q. And when you went aft then you could see the "Arcona" ahead?

(Testimony of Frank J. Loncke.)

A. Yes, the "Arcona" was just about in line speeding up.

Q. The "Arcona" was about dead ahead of the line of the "Celtic Chief"?

A. After the vessel was off?

Q. Yes.

A. Yes, the German vessel was [948—104] pulling on her.

Q. You say she came near, the lines had a bight?

A. The "Arcona"?

Q. Yes. A. What did I say?

Q. When the "Celtic Chief" came off she came closer to the "Arcona"?

A. She seemed to be right on top her.

Q. How close did she go? You were on the stern of the "Celtic Chief"? A. I believe I was.

Q. Looking at the "Arcona"?

A. I was pretty busy at that time, but I remember when the "Celtic Chief" came off she went pretty close to the German vessel.

Q. You think dangerously close?

A. I think if that vessel hadn't got out of the way, I tell you my personal thought when she did go off with a jump and she seemed to overhaul the German vessel, but before the "Celtic Chief" got over there the German vessel got enough speed and tightened up on the wire and it did seem to me she was towing the "Celtic Chief."

Q. What distance do you think there was between the two vessels?

A. About the same distance, I believe, when she was pulling.

(Testimony of Frank J. Loncke.)

Q. Can you give approximately in feet the distance there was between the "Celtic Chief" and "Arcona" when she came together?

A. I could guess at it and say she was about half the length of the wire, the original length what she was towing on.

Q. Hundred feet or ten feet?

A. More than that.

Q. More than a hundred feet?

A. You mean when they came together?

Q. Yes. A. About a hundred feet.

Q. That was the closest they came? [949—105]

A. As near as I can remember.

Q. Just what were you doing?

A. On the quarter deck. From that time on I didn't stay very long in one place because after the vessel was off and she steamed up and after seeing that the "Celtic Chief" went pretty close to that German vessel, I came down below.

Q. Was the "Celtic Chief" still moving up toward the "Arcona" when you left?

A. By that time the "Arcona" was pulling on her.

Q. Before you turned back? A. Yes, sir.

Recess.

Q. I want to ask you further with regard to the use of the winch of the "Celtic Chief" that night, Wednesday night. You say you used the ship's winch for the final pull? A. Yes.

Q. During the whole forty-five minutes?

A. No, not for forty-five minutes. Yes, sir, we did; forty-five minutes.

(Testimony of Frank J. Loncke.)

Q. Now, did you use the winch at all previous to that?

A. Not that I remember it. I remember tightening those tackles by hand and she had capstan forward.

Q. And do you remember at all of the time it was that night that you began using that winch?

A. Probably it was somewhere about ten o'clock, as near as I could compare the two times from the time Captain McCaulay pulled out his watch.

Q. You think about an hour elapsed between those times? A. Yes, sir.

Q. Did you see that winch working at all during that afternoon?

A. Not that I remember. Yes, sir, I believe they hoisted cargo up. [950—106]

Q. How many hatches were they hoisting cargo out of? A. The main hatch and the after hatch.

Q. You saw the winch being used to hoist from both hatches? A. No, sir.

Q. Which hatch?

A. I believe it was used for the after hatch. The winch was used for the main hatch.

Q. Was it used for the after hatch at all?

A. I don't remember that, sir. I know they had another small donkey outside. They had two hoisting engines; one that belongs to the "Celtic Chief" and one that belongs to the stevedores.

Q. How long did unloading continue that night?

A. They kept on loading all the time.

Q. Out of what hatch or hatches?

A. Out of both the hatches. I believe they started

(Testimony of Frank J. Loneke.)

on the main hatch the last moment. I do believe they were—

Q. Right up to the time she began to move?

A. I believe so.

Q. And they were using the winch for that hatch?

A. As far as I can remember.

Q. And after hatch? A. Yes.

Q. Was that hatch being used?

A. Just a moment. I believe they did not use the winch at all for the after hatch. Come to think of it, I don't think there was anything between decks.

Q. Did they unload from the after hatch at all?

A. I am not quite certain of that.

Q. You think if they did you would have noticed it?

A. I would have noticed it. Well, I don't quite remember if they worked the after hatch or not.

Q. Then you don't know whether they used that winch for the after hatch? [951—107]

A. I don't believe they used it for the after hatch. I believe they had the two winches, the ship's winch and the one that belonged to the stevedores on the main hatch.

Q. Using only the ship's winch?

A. Both of them.

Q. Both of the ship's winches?

A. No. The ship only had one winch and the winch that was outside.

Q. As far as you know, they didn't unload from the after hatch at all?

A. As far as I can—I don't remember.

Q. You were around there, weren't you?

A. Yes.

(Testimony of Frank J. Loncke.)

Q. Don't you think you could have seen if they did?

A. Yes, sir. I wouldn't have noticed when the engine was brought alongside.

Q. Alongside to furnish what hatch? What hatch were they using that on?

A. I believe it was on the main hatch. I am not quite sure of that, sir. I remember the scow very well, but I don't remember which hatch that scow was working on.

Q. You were putting attention to the unload part of it?

A. As far as the unloading is concerned, a person aboard the ship is bound to see that they are discharging the cargo, but as far as remembering which one of the hatches, it's hard for me to remember.

Q. And they may have used the ship's winch for the after hatch?

A. It didn't seem possible as far as I remember. They used the donkey for the after hatch.

Q. The ship's donkey?

A. The ship's donkey.

Q. Was there any time when the ship's donkey was being used for unloading on their hatch that afternoon? [952—108] A. That afternoon?

Q. That is, Wednesday afternoon.

A. Wednesday afternoon?

Q. Yes. Any other hatch.

A. I don't remember that. I know that whenever they worked cargo they used the steam donkey.

Q. Who operated the steam donkey of the "Celtic Chief" for the purpose of pulling on your tackle?

(Testimony of Frank J. Loncke.)

A. One of the stevedore boys.

Q. Under whose directions?

A. I don't know, sir.

Q. Were you acting on anyone's direction?

A. Yes, I was going under Captain Miller's direction.

Q. Do you know whether the stevedores were acting under any one's direction?

A. No, sir. It was hard to get the donkey.

Q. Why was it hard to get the donkey?

A. Because they was using the donkey for the cargo.

Q. They were using it for the cargo then?

A. I believe so.

Q. Don't you know? A. Not positive.

Q. But you were sure it was hard to get?

A. Yes.

Q. Then you do believe they were using it for unloading from the hatch? A. Yes, sir.

Q. You don't know which hatch?

A. It seems to me it could not be the main hatch.

Q. What was this difficulty you had in getting it?

A. I don't know.

Q. How do you know it was hard to get the use of the winch?

A. Because we had been told we couldn't get it.

Q. Who told you?

A. Some of the men around there.

Q. Told who?

A. The man who wanted to get it.

Q. Miller's man who wanted to get it? [953—109]

A. Yes.

(Testimony of Frank J. Loncke.)

Q. Do you know when they did get it?

A. Yes. They got it that night for the final pull.

Q. And you kept it the whole time? A. Yes.

Q. It wasn't used for unloading after you got it?

A. I don't believe they was working the after hatch then.

Q. You think they were working the after hatch?

A. I believe so.

Q. And they were using that winch up to the time you got it?

A. Possible, yes. There seemed to be a friction aboard there between the Miller and other people. Miller couldn't get the things when he wanted it.

Q. Who wanted it and couldn't get it?

A. We wanted to do it several times before and he couldn't get it.

Q. Was there anything else that could have been used for besides unloading that afternoon?

A. Besides unloading cargo?

Q. Yes, besides unloading.

A. No, that's about the only use I could think you could use it for; that would be working cargo.

Mr. WARREN.—That's all.

Redirect Examination.

Mr. MAGOON.—You've spoken of this instrument, the machine which pulled on your tackle there, as a winch. In answer to Mr. Olson you spoke of something as a gypsy. Now, what do you mean by those two terms, winch and gypsy?

A. You see, the winch is the main drum where the wire is traveling on for hoisting cargo. The whole engine is a winch. It's a [954—110] steam winch.

(Testimony of Frank J. Loncke.)

It's a steam hoisting gear.

Q. Is there any difference between the winch and the gypsy? A. Why, yes, there is.

Q. Now, which did the Miller Salvage Company pull on? A. The gypsy-head.

Q. Then were they also pulling on the winch?

A. We couldn't use the winch.

Q. Why have you been using the term winch in answer to Mr. Warren?

A. Because the winch didn't have steam enough to work both the gypsy-head and the winch. It's all connected on the steam engine. Here's the winch here and there's a shaft that runs through the side of the house and the end of the shaft there a gypsy-head, and they wouldn't have power to work, power for both of them.

Q. What's the gypsy-head for?

A. For working on deck. Say you wanted to hoist your topsail and the gypsy-head is something in the shape of a bobbin where you can take turns. You couldn't get a turn on the winch.

Q. So this purchase fall was not around the winch at all but around the gypsy-head?

A. Our purchase, yes.

Q. So far as the Miller Salvage people were concerned they didn't use the winch at all?

A. Not the winch, only the gypsy-head. It's a part of it.

Q. The winch and the gypsy-head are two separate things? A. It's on the same thing.

Q. You didn't use the purchase around that winch?

A. Just the gypsy-head.

(Testimony of Frank J. Loncke.)

Q. That's a separate thing, isn't it?

A. It's made on the winch.

Q. But the winch is a round thing perpendicular to the deck? [955—111]

A. No, sir. Horizontal.

Q. And is the gypsy-head horizontal to the deck?

A. Horizontal to the deck too.

Q. But the gypsy-head is a different shaft from the winch?

A. Same shaft. That winch is the same shaft. Here's what you call the cargo drum.

Q. What's that, the gypsy-head?

A. That wire, the cargo drum wire, the wire is going up hoisting cargo out of the ship and on the same shaft that drum is working on the shaft up along here and outside the donkey-house there was a spool. The gypsy-head is outside the house.

Q. That is the only part of this machine, winch or whatever you call it that you used? A. Yes.

Q. That is the gypsy-head? A. Yes.

Q. Now, with reference to the bulwarks. As I understood your answer to Mr. Olson, it was that the bulwarks were something a little over four feet above the main deck? A. Yes.

Q. What was the nature of those bulwarks—were they closed?

A. The main bulwarks were closed, part of the ship's side above the deck, what you folks might call the rail; that is the bulwarks of the ship.

Q. You said they made a curve and ran up on the poop? A. Yes.

Q. And after they got on the poop, were they

(Testimony of Frank J. Loncke.)

opened or closed? A. Made of stanchions.

Q. And stanchions about how far apart?

A. A little more than this. I should say four or five feet apart.

Mr. MAGOON.—That's all.

Mr. OLSON.—I want to ask a further question. From the time that [956—112] you were using the donkey-engine of the "Celtic Chief" was any other power being exerted upon the tackle?

A. On the Miller Salvage Company tackle?

Q. Did you use the donkey-engine in place of hand-power? A. Oh, yes.

Q. In other words, you used the engine instead of using men for the purpose of pulling on the tackles?

A. Yes.

Q. You don't know the amount, the effective horsepower that donkey-engine was capable of exerting?

A. No, sir.

Q. You don't know the number of pounds pressure, steam pressure? A. No, sir.

Mr. OLSON.—That's all.

Mr. WARREN.—Q. Now, Mr. Loncke, when the line was around the gypsy-head and pulling on your tackle, that took the power of the winch. Did you use all the power of the winch?

A. At the last moment, I believe we did.

Q. So that the winch couldn't be used for more than one thing at the time?

A. That's about all it could handle. The weight of that tackle on there; the weight of the tackle on the gypsy-head.

Q. So that the gypsy-head is merely a part of the

(Testimony of Frank J. Loncke.)

winch? A. Yes.

Q. And there is no other on that winch that you could use for pulling? A. One on the other side.

Q. One on the other side that opened out to the front of the donkey-house?

A. No. We couldn't very well use that.

Q. If you had occasion to use a line out forward that is the [957—113] one you'd use. If you had to run a line in front of the donkey-house you would use that one?

A. You couldn't do that unless you put a snatch block.

Q. But there is a gypsy-head on the other side?

A. Yes, sir.

Q. One on each side? A. Yes.

Q. And it would depend on what side you were working which side you'd use? A. Yes.

Q. When they were using that donkey to unload, which gypsy-head were they using?

A. They didn't use the gypsy-head to unload; they used the main winch.

Q. What did they put their line around?

A. Around the main drum of the winch.

Q. In using the gypsy-head it would take power to operate that and you could use the drum?

A. Hardly.

Q. That winch itself could not be used for both purposes? A. I hardly think so.

Q. Do you know whether they tried to use it for two things at once? A. Not that I remember.

Q. You don't remember whether they tried to haul cargo out of the hatch at the same time?

(Testimony of Frank J. Loncke.)

A. No, sir, I don't remember it.

The COURT.—How long was the gypsy-head?

A. It all depends; the smaller the turn—

Q. This particular gypsy-head?

A. This gypsy-head, as far as I can remember, sir, in the middle of the gypsy was eight or ten inches in the middle.

Mr. OLSON.—And grew larger as it bulged out?

A. Like a bobbin; just like a spool of thread.

The COURT.—How long?

A. A foot and a half; eighteen inches. [958—114]

[Testimony of William Wiesbarth, for Libellant.]

Direct examination of WILLIAM WIESBARTH, a witness called on behalf of libellant Miller Salvage Co., and sworn.

Mr. MAGOON.—Q. What is your full name?

A. William Wiesbarth.

Q. How old are you? A. Fifty-five years.

Q. What is your occupation? A. Seafaring.

Q. How long have you been a seafaring man?

A. About forty years. Little more.

Q. What kind of vessels have you worked on?

A. In all kinds of ships.

Q. What do you mean by that?

A. Sailing vessels, steamers, schooners—all kinds of vessels.

Q. What position do you hold now as a seafaring man?

A. Well, I haven't got nothing to do at the present.

Q. But what is the highest position you have ever held as a seafaring man? A. Captain.

Q. How long have you been captain?

(Testimony of William Wiesbarth.)

A. Since 1884.

Q. What kind of vessels have you been captain of?

A. Steamers.

Q. Any other kind? A. Oh, schooners.

Q. Any other kind? A. No, sir.

Q. Schooners and steamers. Prior to your being captain, what position did you hold at sea? [959—

115] The next lowest to captain. A. Mate.

Q. First or second mate? A. Chief mate.

Q. How long were you chief mate before you became captain? A. Seven years.

Q. And what kind of vessels were you chief mate of? A. Steamers.

Q. Before being chief mate what position did you hold? A. Sailor.

Q. You went from sailor to chief mate, did you?

A. (Witness nods head to indicate "Yes.")

Q. What kind of vessels have you been captain of—sailing vessels?

A. Inter-Island vessels, Wilder Steamship Co.

Q. On what vessels were you captain?

A. On nearly all of them.

Q. Name them, please.

A. I have been captain of the old "Likelike," the "Maui"—

Q. What was the horse-power of the "Likelike," do you remember? I don't remember.

Q. The "Maui." Do you remember the horse-power of the "Maui"? A. No, sir.

Q. Any others? A. "Helene."

Q. Do you remember the horse-power of the "Helene"? A. No, sir.

(Testimony of William Wiesbarth.)

Q. Any others? A. "Kilauea Hou."

Q. Any others? A. "Leihua."

Q. Any others? Well, that's enough. During the time that you have been captain or while you were mate of steamers such as you have mentioned, have you had any experience in pulling or towing? [960—116]

A. Never did no towing; never had no accidents.

Q. Have you had any experience in towing?

A. Towing vessels, yes.

Q. What kind of towing have you *you* done in what way?

A. Pulling things up to Kahului or the other place.

Q. That was towing vessels into the harbor and out of the harbor? A. Not in Honolulu.

Q. I don't care where. Wherever you have had towing experience I want to know about it. Have you had any experience in pulling vessels that have been stranded?

A. No, never pulled off any vessels.

Q. Any vessels? A. No, sir.

Q. Any ships of the Inter-Island fleet, have you ever pulled on them? A. No, sir.

Q. Have you been present at any time when vessels have been pulling stranded ships? A. Yes, sir.

Q. Upon how many occasions? About how many times, can you tell? A. Once or twice.

Q. Do you remember of the time when the "Celtic Chief" was on the reef out here in front of the harbor? A. Yes, I remember that.

Q. Do you remember the date, the day or month or the year? A. It was 6th of December, I think.

(Testimony of William Wiesbarth.)

Q. Last year or year before last?

A. Year before last.

Q. 1909? A. 1909.

Q. Do you remember what day of the week it was?

A. It was on the Sunday night. Sunday night to Monday morning. Daylight Monday morning we seen here standing on the beach. [961—117]

Q. What were you engaged in doing at that time?

A. I was captain of the schooner "Concord."

Q. Is that a sailing vessel? A. Yes.

Q. Did you have anything to do with reference to the "Celtic Chief"?

A. Yes. About eleven o'clock I got orders from Captain Miller to get the "Concord" ready and go out alongside the "Celtic Chief" and get some of the fertilizer out of her.

Q. When you went out to the "Celtic Chief" that time, the first time that you went there, in what condition did you find the "Celtic Chief" in reference to being stranded?

A. She was high and dry on the beach.

Q. What was high and dry?

A. As high as she could get up. There was water around her but she was fast to the ground.

Q. I don't know what you call those numbers on the ship's keel? A. I didn't look at that.

Q. Could you give us an idea as to how many feet the keel was below the water?

A. About sixteen or eighteen feet.

Q. At that time? A. Yes, sir.

Q. Did you observe whether or not the bow was on the reef? A. She was all over on the reef.

(Testimony of William Wiesbarth.)

Q. Could you tell whether or not she was bow on, whether her bow was on the reef?

A. My idea is the whole place, her keel was on the reef.

Mr. OLSON.—I object and move to strike the testimony of the witness unless he is qualified to testify.

The COURT.—I'll let the evidence stand at present.

Mr. MAGOON.— [962—118] Q. Now, Captain, what examination did you make, if any, to ascertain that the ship was, that the keel was on the reef?

A. I didn't make no examination of the vessel. I could see with my eyes she was fast and solid on the reef and there were other vessels trying to get her off and they couldn't, so it's my opinion that the whole keel was on the reef.

Q. That is, you made no examination of the bottom? A. I didn't go down there.

Q. But from the position of the ship, the way she appeared to you was that the keel was on the reef?

A. All over.

Q. Now, at that time, how many—were there any other vessels out there at the time that you went out with the "Concord" besides the "Celtic Chief"?

A. Yes, there was the towboat.

Q. Which towboat? A. "Intrepid."

Q. Any other besides the "Intrepid"?

A. Possibly the "Mikahala."

Q. Any other of that Inter-Island fleet.

A. I didn't have no time to look at them. I seen the vessels more or less around there. The "Mikahala" and the "Helene."

(Testimony of William Wiesbarth.)

Q. You think the "Mikahala" and the "Helene" were there? A. Yes.

Q. Are you positive of that? Are you sure of it?

A. I am not quite sure. There were two vessels out there.

Q. What time of the day was it when you got out there on Monday?

A. Monday, dinner-time.

Q. Dinner-time? A. Monday, twelve o'clock.

Q. How did you get out there?

A. Towed out there by the launch. [963—119]

Q. By what launch?

A. I don't remember.

Q. Do you know whether it was Captain Miller's launch or not? A. Captain Miller's launch.

Q. When you got out there what was the first thing you did with your "Concord" with regard to the "Celtic Chief"? A. Made fast alongside.

Q. Which side? A. Port side, amidships.

Q. Did you have any conversation with the captain on board as to what you should do? The captain of the "Celtic Chief."

A. Captain Miller was aboard and he gave us orders.

Q. Did you hear any conversation between Captain Miller and the captain of the "Celtic Chief"?

A. No, sir, I heard no conversation.

Q. What did you do first in consequence of the orders given to you by Captain Miller?

A. Made the vessel fast, got her hatches off, sent a gang of men aboard over the "Celtic Chief." We had sixty or seventy-five men that went over there to

(Testimony of William Wiesbarth.)

take the fertilizer.

Q. How did you get the fertilizer out of the "Celtic Chief"?

A. Sent the men down in the hatches and heaved it out two and two passing the bags out.

Q. The fertilizer was in bags, was it? A. Yes.

Q. In getting this fertilizer out of the "Celtic Chief," did you use any donkey-engine?

A. No, passed it over by hand. Passed them over the side and had a gang of men on the schooner that stowed it away as fast as they got it.

Q. What was the condition of the sea at that time? Was it smooth or rough?

A. Quite a swell on. We parted our hawser, eight-inch hawser, cable, bitts, chocks, and rail [964—120]

Q. What should you say was quite a little swell? How many feet?

A. That's pretty hard to tell. That's hard to tell, how high the swell is.

Q. Now, what was the condition of the "Celtic Chief" as to steadiness? Was she steady or was she unsteady? A. She was quite steady.

Q. What? A. Standing quite easy at times.

Q. I want to know whether she was steady or rocking or going ahead.

Mr. OLSON.—I submit the question has been answered.

The COURT.—I will allow it; objection overruled.

Mr. MAGOON.—Q. Explain a little more, if you please, as to the condition of the vessel with regards to being steady or unsteady?

A. As near as I could see, the vessel was standing

(Testimony of William Wiesbarth.)

quite steady, she didn't move much.

Q. What do you mean by didn't move much? Did she move much?

A. Not at that time. When we started to take the cargo out afterwards she started to move then she got a little more lively.

Q. When she got a little more lively what did she do? How did she act?

A. I couldn't tell you at that time.

Q. You said she got a little more lively. How could she get a little more lively?

A. By moving in a little bit.

Q. Moving in which way?

A. Moving in shore. That's the only thing she could do. Raise the vessel up she would naturally go in little by little. She didn't run like a race horse. She seemed to be going further on the beach.

Q. I want to know whether or not she rocked. Did she [965—121] rock from side to side?

A. Very little possibly. Not much.

Q. Well, how was it then that you cut, broke your hawsers and broke your chock?

A. On account of the swell. The swell come running in. We laid *they* alongside. The vessel was back and forth and parted the lines. We put out new ones and tied her up again.

Q. How long did you stay on the port side of the "Celtic Chief" that day?

A. Five o'clock we had the vessel loaded.

Q. Then what did you do?

A. Towed her to Honolulu.

Q. By the time that you had your vessel loaded

(Testimony of William Wiesbarth.)

what was the condition of the sea?

A. That was the same.

Q. How many tons of guano or fertilizer did you take out, do you know?

A. I should say possible a hundred tons.

Q. That day?

A. Up to five o'clock that afternoon.

Q. When you went back were you towed back?

A. Yes, towed back.

Q. What men did you take with you, if any?

A. Left a big gang there all that time. Brought the "Kaimilou" out; most of the men aboard.

Q. Now, what time did the "Kaimilou" get out there?

A. She got there about three o'clock in the afternoon.

Q. And what was done when she arrived?

A. She made fast to the starboard side and started to take off cargo same as we did. [966—122]

Q. Which left first, you or the "Kaimilou"?

A. I went out first.

Q. You don't know how many tons the "Kaimilou" took?

A. No. They only filled her up on the upper deck. Might be she had only fifty tons; might be she had more, might be she had less.

Q. How did the fertilizer get out of the hold of the "Celtic Chief"? A. Passed it out by hand.

Q. Which hatch did you get your cargo from?

A. The main hatch.

Q. Which hatch did the "Kaimilou" get its cargo from? A. Out of the main hatch too.

(Testimony of William Wiesbarth.)

Q. When you left the "Celtic Chief" where was Captain Miller?

A. He was aboard the "Celtic Chief."

Q. Did you return again to the "Celtic Chief"?

A. Well, made the "Concord" fast alongside to the Hackfeld wharf and had orders to bring out the "James Makee." I went out with the "James Makee" and took her out.

Q. What did you do with the "James Makee," after you got her out?

A. I took her out of the port side and made her fast.

Q. What did you do next?

A. Started to load cargo.

Q. When was that?

A. That was after seven o'clock that night, about six o'clock, seven o'clock.

Q. Where was Captain Miller when you arrived with the "James Makee"?

A. He was in the "Celtic Chief."

Q. From what hold did you get fertilizer to put on the "James Makee"?

A. Took it out of the main hatch.

Q. How did you get it out of the hatch?
[967—123]

A. Passed it out by hand; made steps in the hatch; a couple of *me* here like this.

Q. What was the condition of the sea?

A. The usual swell on. The same swell as it was when I come out there, dinner-time.

Q. How long were you there with the "James Makee"?

(Testimony of William Wiesbarth.)

A. I stayed until two or three o'clock in the morning.

Q. Did your men work continuously or did they shift and rest? A. No. Worked right along.

Q. About how many tons did you take off of the "James Makee"? A. Possibly 95 or 100 tons.

Q. Did anything happen to the "James Makee" by reason of being there in that location?

A. "Makee"?

Q. Yes, any injury to her?

A. No, I don't think *were* broke anything there.

Q. What was the condition of the sea with reference to the "James Makee"? Withdraw that. What was the condition of the sea with reference to the motion of the "James Makee"?

A. She was moving pretty lively around.

Q. State whether or not in that motion the "James Makee" would come in contact with the "Celtic Chief."

A. We got fenders out; fenders in between them take most of the bumping off her.

Q. At times would she bump or not?

A. Just knocking up against the bark.

Q. Now, when you left the "Celtic Chief" with the "James Makee," how many of those men did you take back with you?

A. Took them all back that night.

Q. About how many?

A. I think about 125 or 130 men with some men came on with the "Kaimilou." I don't [968—124] know how many. We had about 125 or 130.

Q. Did the "Kaimilou" leave before you that

(Testimony of William Wiesbarth.)

night? A. Yes, she left before.

Q. Now, when you left the second time where was Captain Miller? A. He come in with her.

Q. That was about what time on Monday night?

A. Tuesday morning about two or three o'clock.

Q. What was the next thing you did, Captain, with reference to the stranded "Celtic Chief"?

A. On the evening at about 9 or 10 o'clock the "Celtic Chief" she was going in a little by little; slowly, not running; you could see, though, that she was going higher and higher. In the evening the water came in and it was still going on more.

Q. I want to know what was the next thing that you did after you went into the harbor with the "James Makee" with Captain Miller and the men?

A. Went alongside the Hackfeld wharf.

Q. What was the next thing you did with reference to the "Celtic Chief"?

A. We let go our lines and come into Honolulu; left the "Celtic Chief."

Q. After you left the "Celtic Chief" that time in the morning about two or three o'clock on Tuesday morning, what was the next thing that you did in connection with the "Celtic Chief"?

A. Went off to the Hackfeld wharf and started seven o'clock to discharge the cargo.

Q. Did you go to the "Celtic Chief" again? When did you return back to the "Celtic Chief" after you left her that morning with the "James Makee"? How long after that was it before you went back again? [969—125]

A. That was on Tuesday evening, about six o'clock,

(Testimony of William Wiesbarth.)

when we left Honolulu.

Q. What did you do in the meantime, if anything, in connection with the "Celtic Chief"? What were you doing?

A. I was discharging cargo on the Hackfeld wharf.

Q. It took you all the time from three o'clock in the morning until six or seven?

A. The men was played out. We laid down and slept. We come in about four or five o'clock. It would be time to send them up town and get something to eat. That's what the men done.

Q. After you finished discharging the cargo what did you do?

A. Then we went to put the big anchor aboard and tackle and block.

Q. What did you do with reference to getting the big anchor?

A. Well, we got the big wire cable about 8-inch wire, about 900 to 1,000 feet long and took that on to the anchor and took it outside.

Q. How much and how many men did you use in handling this wire cable?

A. Well, the same men that worked the first time worked the second time.

Q. What did these men with reference to getting the wire cable? Where was it obtained from?

A. We got it out of the storehouse.

Q. Near the wharf? Where is the storehouse?

A. I couldn't tell where. Mr. Miller got a storehouse on the Hackfeld wharf at that time.

Q. You don't know where it came from?

A. I don't know where it came from.

(Testimony of William Wiesbarth.)

Q. Where was the anchor obtained?

A. On the Hackfeld wharf in the neighborhood of that storehouse.

Q. Outside of the door of the storehouse, that's where you [970—126] saw it? Do you know where it was taken from to that place? Was it there all the time just where it had been left?

A. We had it on the "Makee" before and we landed her. It was in the way. We had to go to Maui to do some other work.

Q. You took this anchor and this rope from Hackfeld's wharf. Where is that, what place?

A. Near the railroad wharf.

Q. How long did it take you to get the wire cable and the anchor on board?

A. We took till about six o'clock that evening.

Q. From what time till about six o'clock?

A. Little after two, half-past two.

Q. Then you began at two or half-past two and you got everything aboard by six o'clock in the evening. After you got everything on board of the "James Makee," what was the next thing you did?

A. Steamed out and got up near to the "Celtic Chief" and dropped that anchor in behind of her.

Q. How far to the stern of the "Celtic Chief" was it that you dropped that anchor?

A. Possibly nine hundred feet.

Q. Do you know the weight of that anchor?

A. Yes. It's between six and seven tons.

Q. Before you dropped the anchor, did you attach anything to it?

A. Yes, else we'd never get it up again.

(Testimony of William Wiesbarth.)

Q. You dropped the anchor?

A. Got a wire cable.

Q. How big was that wire cable?

A. About eight inches.

Q. Eight inches in diameter or circumference?

How do you measure?

A. Well, circumference. [971—127]

Q. You think it was about eight inches around?

A. No, through.

Q. Eight inches through?

A. Measure the wire through. (Indicates on fingers.)

Q. That's about two inches?

A. That's about eight inches.

Mr. OLSON.—Q. Around?

A. Yes, Eight inches.

Mr. MAGOON.—Q. Was there any buoy attached to that anchor?

A. Yes. We got a gasoline tank with a wire cable to the anchor.

Q. What was the color of the tank?

A. Black painted.

Tuesday, May 23, 1911.

Q. Did you have any part in placing the Miller anchor? A. Yes.

Q. What did you do with reference to the matter?

A. Wednesday morning we lifted the anchor again.

Q. You went in the morning and did what?

A. Lifted that anchor up again. We dropped it in the evening. In the morning laid it right behind the "Celtic Chief."

Q. When did you drop it first?

(Testimony of William Wiesbarth.)

A. In the evening on Tuesday.

Q. What was the reason for picking it up again on Wednesday morning?

A. To find a better position. It was about dark on Tuesday evening when we dropped it.

Q. What was the—what was there in choice of position? You say you wanted a better position?

A. In the evening we didn't get it in the right place. [972—128] It was getting dark. We just dropped the anchor and waited until daylight in the morning.

Q. Where did you drop it on Tuesday evening?

A. In behind the vessel.

Q. How close to the vessel?

A. I think a thousand feet off; somewhere near there.

Q. Where did you drop it the second time?

A. We laid it in the right position, right astern of the vessel.

Q. Wasn't it right astern of the vessel the first time?

A. We couldn't place it in the night-time, we couldn't see. We dropped it anywhere.

Q. However, you dropped the anchor in position. The first time, did you do anything towards getting the cable on the ship? A. Not during the night.

Q. The first time that you connected the cable to the ship was on Wednesday morning, was it?

A. Wednesday morning.

Q. What time did you get through dropping the anchor on Tuesday night?

A. We got it there between six and seven o'clock.

(Testimony of William Wiesbarth.)

Q. After that, what did you do?

A. Laid down and had rest.

Q. Where? A. In behind the "Celtic Chief."

Q. You stayed there that night?

A. Stayed there that night.

Q. What time did you begin operations in the morning?

A. Daylight lifted the anchor up again.

Q. During all this time you—that is, from the first, from Monday morning until Wednesday, how many men had you been constantly employing?

A. Well, about one hundred and twenty-five.
[973—129]

Q. In working—as they worked—did you work according to hours or did you pay any attention?

A. Worked any time, night and day.

Q. You never was allowed to rest?

A. Well, some of them fellows laid down and take a nap even while they were working.

Q. What was the operation of lifting the anchor, was it a difficult thing or easy thing to do?

A. Oh, get up easy enough.

Q. What vessel did you use?

A. The "Makee"—"James Makee."

Q. What's the tonnage of the "James Makee"—do you know?

A. It's about three hundred tons, I should say.

Q. What power does she have? What power—steam or sail? A. Steam.

Q. You used coal for fuel? A. Coal.

Q. After you got the anchor up you took it to a new location, a proper location and dropped it again,

(Testimony of William Wiesbarth.)

did you? And then what did you do?

A. Then we ran lines and hauled the steamer around.

Q. What is that?

A. We ran lines and then moved the steamer up close to the "Celtic Chief" and passed this wire cable aboard.

Q. At that time where was Captain Miller?

A. He was aboard the "Makee" that time.

Q. State whether or not Captain Miller was with you all the time from Tuesday evening when you took the anchor out until you put the wire cable aboard the "Celtic Chief."

Mr. WARREN.—I think that's a little leading.

The COURT.—Sustain the objection.

Mr. MAGOON.—Q. Where was Captain Miller from the time that the anchor was [974—130] taken aboard the "James Makee" on Tuesday until you place the wire cable on board the "Celtic Chief"?

A. He was aboard the steamer, "James Makee."

Q. After the wire cable was taken aboard, what next was done?

A. Hauled the steamer out of the way and all went aboard the "Celtic Chief."

Q. How many did you have at that time working for the Miller Salvage Co.?

A. There was one hundred and twenty-five men aboard. All the time; we had the same men on all the time.

Q. Until the "Celtic Chief" came off the reef?

A. Yes, sir.

Q. What next did you do then after you got on

(Testimony of William Wiesbarth.)

board the "Celtic Chief"?

A. Well, we sent a gang of men on the morning, daylight, to rig the tackles up and get ready to heave the wire in.

Q. That was Wednesday morning?

A. Wednesday morning.

Q. How long did that—were you present when they were rigging the tackle?

A. No, not when they rigged the tackle up.

Q. When you got there, what arrangement did you find for pulling on this wire cable?

A. Got a hawser in triple blocks and hauled that tight.

Q. What was the blocks attached to?

A. They were made fast to the wire cable. The outer block and the inner block was made fast forward from the foremast on to the bitts and this—the big wire was shackled on to that.

Q. How many tackles did you have?

A. Three tackles we got.

Q. What use were those tackles put to? [975—
131] A. Put on for heaving the purchase.

Q. How many purchase tackles did you have?

A. Three tackles.

Q. What was the second tackle used for?

A. Put on the first one.

Q. And the third tackles?

A. Put on to the second one.

Q. When you brought the cable on board the "Celtic Chief," how did you bring it aboard—in what place?

A. Put it through the starboard after chock, over

(Testimony of William Wiesbarth.)

the poop, over the capstan.

Q. On what deck? A. On the after deck.

Q. On the main deck or on the poop deck?

A. The poop deck through the chock.

Q. Through the chock and on the poop deck.

How high is the poop deck above the main deck?

A. Just about seven or eight feet.

Q. Then how was the cable—what was the appearance of the cable from the poop deck to where it was taken hold of by the tackle, by the block? Was it a straight line or did it go down?

A. It was a little slanting. Seven feet from the after deck to the poop deck, that was a slant of seven feet. The deck was seven feet high, here was the wire going over just in front of the capstan, there was the block. Then this slant was about two hundred or two hundred and fifty feet from the bottom. That is the line of tackles leading to the fall.

Q. Now, what was done after you connected your tackle to this lashing at the fore part of the ship?

A. Shackled it on to the wire.

Q. Then what was done?

A. Hauled it taut with hands. First took in the slack then put it to the steam winch and took in more slack and then [976—132] stopped it and put another tackle on, second tackle; couldn't get any more purchase and put the second tackle on.

Q. What was done after that?

A. Then hauled it up taut, took in some more slack.

Q. How did you haul it taut?

A. Took it to the capstan. They were using the

(Testimony of William Wiesbarth.)

winch for fertilizer. Those Island steamers were using the winch for lifting the cargo. When we wanted to use the winch they said, "No, you can't have it, we need it for the fertilizer."

Q. How many men did you use for manning the capstan?

A. About five or six men on a capstan bars.

Q. Five or six men on one bar; how many all together?

A. Eight bars, eight, at least, and they stick out ten feet on each side of the capstan, then they got around there.

Q. How many men all together?

A. Put on all hands we could.

Q. How many, about?

A. That's hard to tell.

Q. I just want to know—five or forty?

A. Oh, about forty.

Q. During all of these operations, did you have any assistance at all from the ship's crew or from anybody else?

A. No, sir; all our own force. The ship's crew didn't help nothing.

Q. Did anybody else take any part in this work—from the Inter-Island Company or the people from the "Arcona"? A. No.

Q. It was all done by the Miller Salvage crew?

A. That's all.

Q. When you got your second block on and tackle taut, what next did you do?

A. Got another tackle on that one. [977—133]

Q. How did you work that?

(Testimony of William Wiesbarth.)

A. Stopped the tackle, put first lashing on it to keep it in place; then we had the tackle on to that next fall.

Q. How did you heave up on that?

A. Through a leading block.

Q. And then did what?

A. Took that to the capstan.

Q. About what part of the day, of Wednesday, was the winch being used in discharging cargo?

A. All the day long from Wednesday all day. Whenever there was a boat they used the winch. When there wasn't a boat we took a chance and took it to the winch. At last we couldn't get it any more, there was boats coming all the time.

Q. From the time that you took the wire cable aboard the "Celtic Chief" until evening, what were you doing?

A. Heaving on this gear, on our purchase.

Q. All the day?

A. From Wednesday all the time. The men was standing by all the time. We hove it taut. We kept pulling. We never went away from the tackle if we could get anything. When we couldn't get nothing we went over and took a spell.

Q. At evening, what was the condition of affairs? What were you doing, say at dusk?

A. We stayed by the capstan. About eight o'clock the water was coming in a little then and we was trying to heave away on her. When the fertilizer had been taken out of her she was little lighter all the time.

Q. State what, if any, was the effect of the work

(Testimony of William Wiesbarth.)

on this anchor with reference to the ships going further on the reef as the cargo was being taken out during Wednesday.

A. On Wednesday the vessel stayed where she was, she didn't go in any more.

Q. Why did she not go any further? [978—134]

Mr. OLSON.—I object on the ground that it does not appear that this witness is qualified to testify; furthermore, that the witness does not know what the conditions were at the time.

The COURT.—I sustain the objection.

Mr. MAGOON.—Q. I'll ask you whether or not the wire cable attached to the anchor, the Miller Salvage anchor, was taut. I wish to withdraw that. At what time on Wednesday was it that the wire cable attached to the Miller Salvage anchor and to your tackle on board the ship became taut?

A. In the afternoon after dinner.

Q. Describe to us to what extent she became taut.

A. All the weight we could put on the tackles. It was tight.

Q. State whether or not when that wire cable became taut it would permit the "Celtic Chief" to go farther in shore.

Mr. OLSON.—I object to the question on the ground it doesn't appear that the witness is competent to answer, qualified to answer.

The COURT.—SUSTAIN THE OBJECTION.

Mr. MAGOON.—Q. After this wire cable became taut as you say, state whether or not the "Celtic Chief" went further in shore.

A. No, she didn't go any further in on Wednesday.

(Testimony of William Wiesbarth.)

Q. Beg pardon?

A. Not on Wednesday afternoon, the vessel didn't go in any more.

Q. State what had been the condition with reference to her position as to going further in shore prior to the putting—making taut of the Miller Salvage cable.

A. Before we got the cable taut the vessel was going slowly in shore all the time. I watched it on the channel buoys and took a bearing, and taking a certain place and the channel buoys I see that the vessel was going in, going in all the [979—135] time, little by little.

Q. In case—I withdraw that. What would be the effect of discharging cargo from the "Celtic Chief" upon her position, as to whether or not she had gone further in shore as the cargo was taken out?

A. After the wire cable was taut?

Q. No, no, without any wire cable at all; without anything pulling from behind, what would be the effect?

A. She would go high and dry up on the shore.

Q. The more cargo you would take out, the further—

A. The further she would go in.

Q. Now, you said on eight o'clock on Wednesday evening something took place, I forgot what it was.

A. Eight o'clock we stood by and hove taut and the vessel was moving then. Once in a while she gave a kind of jerk like that.

Q. Now, what was done so far as the Miller Salvage people were concerned between eight o'clock and the time when the vessel came off?

(Testimony of William Wiesbarth.)

A. Nine o'clock I was watching the wire all the time.

Q. You were watching the wire all the time?

A. Hitting it with a crowbar, with a long spike; see how she was. By and by I could see it was taut; by hitting it you could see if it was taut.

Q. At nine o'clock you say you were doing that?

A. I went aft to get Miller.

Q. You mustn't tell what Captain Miller said. You went after Captain Miller and what was done then? I'll ask you Mr. Captain, when you went back to Captain Miller, what took place? Now, then, you may say what he said.

A. That was about, I think, ten o'clock.

Mr. OLSON.—Now, I object to any statement as to what Captain [980—136] Miller said at that time.

The COURT.—The objection is sustained at this time.

Mr. MAGOON.—Now, you must leave out what Captain Miller said. You went back and saw him. Where did you find Captain Miller?

A. On the poop, aft.

Q. What was he doing?

A. He was working on the vessel.

Q. How long did you remain there with him?

A. I went aft it was about ten o'clock and I told to Captain Miller, "Well, the wire was getting slack at times." The block set down, dropping from the hight, sank down, so I went aft. I told Captain Miller our wire is slacking up and the vessel is coming off for I could see by the lights it was coming off.

(Testimony of William Wiesbarth.)

Q. At that time, Captain, was anybody else pulling on the "Celtic Chief"?

A. No. The vessel it was supposed to be that evening. I hear—

Mr. OLSON.—I object to what he heard.

A. There was supposed to be two lights and the steamers should all pull full speed, two red lights in the starboard, mizzen rigging. That evening dark they put one red light. The lieutenant from the man-of-war was there. He was shooting stars. He was shooting red and blue and white stars so he said if he fires this gun—

Mr. OLSON.—Who was the person said this?

A. To the captain.

Q. Who said this?

A. This lieutenant from the man-of-war.

Q. What did he say, to whom?

A. Either to the pilot or to the captain.

The COURT.—Captain of the "Celtic Chief"?

A. Captain of the "Celtic Chief" or to the pilot; to fire this gun and hoist up the two red lights and that's the signal [981—137] for the steamers to pull full speed on the vessel. They had only one red light in the mast. After I went to Captain Miller and told him she's coming off he watched it and we was heaving all the time. She was going off little by little by little. So this took time but didn't go so very quick. She wasn't going quick. We kept heaving. You could see by the lights that the vessel were coming out. Then possibly eleven o'clock, half-past ten or eleven, I had no watch on me, when the vessel made a jump; she gave a good

(Testimony of William Wiesbarth.)

jump two times that way; then they heard this in the cabin. There was the pilot and the captain in the cabin. When they heard this they said, "By God, she's coming off." Then they came on deck. Then McCaulay and some of them hoist the second red light. By that time the tackles were all slack and the wire hung this way. The vessel was off and was coming out then they started ahead. Then they had to cut the lines from the steamer to get them off and the "Arcona" had a wire cable and she pulled her out when she was off.

Q. At that time when the "Celtic Chief" came off the reef, how many vessels were attached to her, do you remember?

A. Well, there was the "Arcona"; there was the "Mikahala"; and the "Helene," I think.

Q. How was the "Intrepid"?

A. They had took their hawser during the day-time.

Q. So there were three as far as you can remember? The "Arcona," the "Mikahala," and the "Helene"? The "Mikahala" and the "Helene" were Inter-Island boats?

A. Yes. And the "Likelike."

Q. She was also an Inter-Island boat? A. Yes.

Q. Now, do you know when—whether or not any pull was made by these ships that were pulling on the "Celtic Chief" before [982—138] this time when she came off the reef?

A. I think they all were lying just on their lines and waiting for the signal from the red light.

Q. But prior to that, we will say in the afternoon

(Testimony of William Wiesbarth.)

of Wednesday, do you know whether or not any pull was made by these steamers?

A. I think they pulled for till about six o'clock that evening when I heard this conversation from the lieutenant.

Q. I wish you would go more fully into that conversation. Just give us what was said.

A. Well, he told the pilot hoist one red light in the rigging—

Mr. WARREN.—Who told the pilot?

A. The lieutenant, the lieutenant from the "Arcona." One red light in the rigging and that means to do nothing, but when they hoisted up two then they should go off full speed ahead.

Q. Was any time fixed when these two red lights should be hoisted in the rigging?

A. It was about half-past eleven or twelve o'clock, when it was high water, for them to start pulling. It was no use in the afternoon; it was low water.

Q. Is that all the conversation you can remember?

A. Yes.

Q. Prior to this conversation, I want to know whether or not these ships made any pull on the "Celtic Chief"?

A. They pulled in the morning up to six o'clock that evening.

Q. How did they pull, if you know? What was the operation of pulling?

A. They had hawsers fast to the vessel and pulling on her.

Q. Well, that's very simple, but how could they exert the strain? How did they pull? What made

(Testimony of William Wiesbarth.)

them exert the power?

A. By using their steam.

Q. And how did that work?

A. They got the engineer to make the steam up.

[983—139]

Q. You can't pull with steam alone?

A. Engine.

Q. Did it require something else besides the engine? A. No nothing else.

Q. Well, you got to have the engine; what else?

A. I'm no engineer. I don't know.

Q. Can you make a ship go with the engine and the propeller only? A. They got a propeller.

Q. That's what I am trying to find out. Were these ships pulling by their propellers or not?

A. They got to turn that propeller around. Then according if she goes fast the vessel makes so much more headway.

Q. Could you tell whether they were pulling with their winches or by their propeller?

A. Couldn't pull with the winch; that wouldn't do them no good.

Q. Why not?

A. They had an anchor down. Even if they had steam on you could only get so much to heave that chain taut. If you want to get any more on it you got to slack that cable or stick out another chain.

Q. Do I understand they could not get power enough on a winch to get a pull? A. No.

Q. So these vessels, according to your observation, were pulling by their propellers?

A. Propellers; yes.

(Testimony of William Wiesbarth.)

Q. Did you observe them to see?

A. I didn't see it go around in the evening.

Q. But when they were pulling, at the time they were pulling from the morning until evening of Wednesday, could you see whether their propellers were working? A. Yes, sure. [984—140]

Q. And were they working?

A. Their steam engine.

Q. Do you know how many vessels—I withdraw that. Do you know whether or not any pull was made on the "Celtic Chief" on Monday by these vessels?

A. Yes, they was pulling all day Monday.

Q. How many vessels were attached to her Monday? Do you remember?

A. I seen the "Mikahala" and the "Intrepid" and the "Helene"; and then the "Mauna Kea" came up. She parted a line, hawser, I think two times. I seen it going myself. Then they made it fast the second time and broke it again and brought it into Honolulu. That was Monday afternoon, I think.

Q. Did the "Mauna Kea" return and pull after that?

A. She didn't come out again. She was out only one time.

Q. Any other ships besides the "Mauna Kea"?

A. The "Mikahala." I didn't keep no track of it. There was three or four vessels there. I can't remember. Might be they came out there same day and they took them in again next day.

Q. Now, can you explain to us—I withdraw that. On Tuesday state whether or not any ships were

(Testimony of William Wiesbarth.)

pulling on the "Celtic Chief."

A. Yes, they were pulling.

Q. Do you remember what ships they were?

A. I seen the "Mikahala" and the "Intrepid" and the "Helene," I think. That's all I remember.

Q. Can you explain to us, Captain, how it is that with these ships pulling on the "Celtic Chief" she could go further in shore?

A. Every time the heavy swell came in it raises the vessel. It raised the vessel off and takes them off a little, then [985—141] the swell strikes the ship and comes in with her. They can't keep the hawser tight.

Q. Then the action of the waves prevents a steady strain by the pulling vessel? A. Yes.

Q. Now, you have stated that the "Celtic Chief" was off before the light was put up. Did you make any special observation at that time to enable you to say that the "Celtic Chief" was off before the light was put up?

A. Yes. The cables all came slack and hung right over the stern and the vessel was going out. Then they hauled their anchor up and she came up to the "Arcona."

Q. How near should you say the "Celtic Chief" came to the "Arcona" before she pulled her anchor out?

A. They had to heave their anchors up and move towards the "Arcona."

Q. At what time did this, did the "Celtic Chief" approach the "Arcona" in this way? Before the "Arcona" began to pull or after the "Arcona" began to pull?

(Testimony of William Wiesbarth.)

A. No, before the "Arcona" started to pull. They got pretty near up to the "Arcona" and then they got their anchor up and were heaving away.

Q. Could you observe the time at which the other vessels began to pull after the red light went up?

A. Well, they had to get their anchor—they hove their anchor up. They had to cut their hawsers to get clear—to get out of the way else there would have been some collision.

Q. Could you state whether or not any of the Inter-Island boats pulled after the red light went up?

A. They all pulled to get out of the way.

Q. I mean did they pull on the lines that were on the "Celtic Chief"? [986—142] A. Yes.

Q. What was the effect of the other boat's pulling?

A. Trying to keep clear from her. They couldn't all pull together. The vessel had to get her to an anchorage.

Q. What I have reference to is whether or not the Inter-Island boats pulled on the "Celtic Chief" as a part of the force which was taking her off the reef?

A. I couldn't understand.

Q. Were the Inter-Island boats pulling in this pull at the time that the "Celtic Chief" went off the reef?

A. That time they didn't pull. They started to pull off when the red lights was hoisted.

Q. Could you say whether or not, from their hawsers, they were pulling at the time the red lights went up?

A. Yes, they all started. They was all keeping good lookout for them. As soon as the signals were up they all started the engine.

(Testimony of William Wiesbarth.)

Q. How long was it after the red lights went up, the two of them, before you let go from the Inter-Island boats?

A. As soon as we seen that our hawser slackened up we got our tackles off. We had to be very quick. We had to get every thing clear and slip our wire.

Q. How long after the red, the two red lights went up, before you let go of the Inter-Island boats; that is, the "Celtic Chief"?

A. As soon as they could get started ahead with the engine. Some they let go by hands and some they had to cut with the axes.

Q. As soon as what?

A. As soon as the vessel came off; as soon as the signal was hoisted they let go their lines.

Q. Who was it that cut the lines or let go the lines on the "Celtic Chief" when she came off the reef? What crew was it? [987—143]

A. It was the men from the Inter-Island Company. They had plenty men aboard there.

Q. So the Inter-Island men manned the Inter-Island lines?

A. Yes, some cut it with the axe and some let go by hand. The "Arcona" had two small wires passed to it and couldn't let go.

Q. How were the wires from the "Arcona" fastened to the "Celtic Chief"?

A. One was fastened over the quarter.

Q. And the other?

A. One was fastened on the starboard side through a chock and fastened to the mainmast. One wire.

Q. And the other?

(Testimony of William Wiesbarth.)

A. I can't tell where they had the other. I only see on the starboard side and amidships stuck past the main hatch. That's one wire.

Q. Could you observe or did you observe the lines fast to the "Arcona" prior to this time when the "Celtic Chief" came off the reef?

A. Yes, I could see them. That one, I know the one wire.

Q. What was the condition of that wire as to being taut or otherwise?

A. That wire slackened down too; slackened down on the wire.

Q. How could you see the wire?

A. I couldn't see it when it went down on the water.

Q. How could you see any portion of it?

A. I could only see out of the chock. There was no strain on it at that time.

Q. Could you observe the other lines attached to the other vessels?

A. They were all slack; as soon as they hoisted the signal up to go ahead then they all hove on it.

Q. How many minutes should you say, or seconds, was it after the two red lights were put up before the lines were cast off [988—144] the "Celtic Chief" that were attached to the other ships, to the Inter-Island boats?

A. It would take two or three minutes when they cast off the lines because the "Arcona" was pulling.

Q. How long did it take after the two red lights were put up before you let go of the cable of the Miller Salvage anchor?

(Testimony of William Wiesbarth.)

A. As soon as we seen that our wires hung over the stern we took the shackle off and slipped the wire.

Q. After that what was done?

A. The "Likelike" went alongside of her and ahead of her and pulled her to the anchorage.

Q. What became of all your people that were on board? A. They came in town that night.

Q. On what vessel?

A. They stayed there, outside there that night.

Q. On what vessel? A. In the "Makee."

Q. All of these men that you had there or only some of them?

A. Possibly might some have been sent ashore, I didn't see. Then we went aboard had something to eat, laid down and sleep.

Q. When did you pick up the anchor? Did you have anything to do with picking up the anchor?

A. Yes.

Q. When did you do that?

A. While the vessel came off the "Arcona" had a wire afoul of our anchor buoy and we pulled the wire off. We tried to get it, we couldn't. In the morning we looked for it with a glass, water glass and we found it.

Q. Who was the one that was looking for the anchor? A. Some of the men of this crew.

Q. What time was it when you reached the wharf with the anchor?

A. Oh, we went out in the stream. We didn't go alongside the wharf then.

Q. What time did you get in the stream? [989—

(Testimony of William Wiesbarth.)

A. About nine or ten o'clock that morning; might be eleven o'clock. It took some time to pick that anchor up.

Q. That was Thursday morning, was it?

A. Thursday morning.

Q. Was that all that was done with reference to the operation of the salving of the "Celtic Chief" and her cargo by the Miller Salvage Company?

A. We picked our anchor up and came into the harbor. We hoisted it up. The stock came almost to the railing and we lashed it there and come in slowly then anchored and took the anchor aboard.

Q. Did you keep the anchor on board after that or did you put it somewhere?

A. It stayed aboard might be three or four months and then we took it ashore.

Mr. MAGOON.—Cross-examine.

Cross-examination by Libellee.

Mr. OLSON.—Q. How long is it since you were last employed by the Miller Salvage Company?

A. March of 1910.

Q. You haven't been employed by the Miller Salvage Company since March of 1910?

A. That was the last then I worked for Mr. Low.

Q. How long did you continue to work for Mr. Low?

A. Up to two months ago.

Q. What have you been doing since that time?

A. On the "Kaena."

Q. Who owns the "Kaena"? A. Mr. Low.

Q. What have you been doing the last two months?

A. I haven't done nothing.

Q. Mr. Low that you speak of was, prior to the

(Testimony of William Wiesbarth.)

time you left the Miller Company, an officer and stockholder in that company? A. I think so.
[990—146]

Mr. MAGOON.—I simply say he has nothing to do with this claim. He has no interest in it.

Mr. OLSON.—I think that is something that should be stricken from the record; it is not testimony.

The COURT.—So ordered.

Mr. OLSON.—Q. You've spoken of the "James Makee" as being a steam vessel, Captain. At the time that the "Celtic Chief" was on the reef in December 1909, I'll ask you how the "Makee" was equipped with engines.

A. Had a regular engine and boiler.

Q. Was that engine and was that boiler in operation at that time? A. Yes.

Q. The engine was in good condition?

A. Yes, in good order, I believe.

Q. Was the "Makee" licensed to operate as a steamer?

A. I don't know if she was licensed. Captain Miller sent me out and the next day when we came back the old man, inspector, took and locked her engine.

Q. When you went out the first time you went out under steam? A. Yes.

Q. And that was when you went out to get cargo?

A. Yes.

Q. The second time you went out she did not go under steam?

A. No, the "Mokolii" towed her out.

(Testimony of William Wiesbarth.)

Q. At the time you took the anchor she did not operate under steam? A. No.

Q. And at no time thereafter during the time the "Celtic Chief" was on the reef?

A. No. We hauled the lines up to the "Celtic Chief" and moved around that way. When we passed the line aboard we moved around the other way. We had a towboat there. [991—147]

Q. Why did the inspector prevent the use of her as an engine, do you know?

A. Well, might be she wasn't licensed.

Q. You don't know why? A. I don't know.

Q. Just when was it, about what time of night was it, that you first observed that the "Celtic Chief" was beginning to come off the reef?

A. That's on Wednesday night.

Q. About what time?

A. It was about half-past nine, I should say. About half-past nine or ten o'clock.

Q. You think she was beginning to move seaward?

A. Yes.

Q. How were you able to determine that?

A. I was watching the channel buoys and by taking the two buoys in line and a certain mark on the steamer you take them in line there you could get a bearing.

Q. And you observed, did you, that she was beginning to come off? A. Yes.

Q. And did she continue to come off?

A. Very slowly.

Q. How long would you say was it from the time that she first began to move off until she finally came off?

(Testimony of William Wiesbarth.)

A. Well, it's about ten o'clock. Half-past nine when we started to move and was coming out gradually, little by little, and I told Captain Miller that I noticed the vessel was coming off so he looked there and he was watching the wire and told the men at the same time to keep aheaving on. It might have been eleven o'clock; I have no watch.

Q. It might have been an hour or hour and a half that she was gradually coming off the reef?

A. Yes.

Q. How do you know that the vessels, that the vessels that had lines aboard the "Celtic Chief" were not pulling during this time? [992—148]

A. I didn't see the propeller turn up the water.

Q. And from that you judge that they were not pulling?

A. I can't see white water behind the steamer.

Q. And they didn't have any white water turning up? A. No.

Q. And that is the reason that you have?

A. Yes.

Q. You didn't observe that the "Arcona's" propeller was turning?

A. She didn't pull either. She didn't turn the water.

Q. For that reason you think the "Arcona" wasn't pulling?

A. She had a search-light up; you could see very plain.

Q. Perfectly smooth?

A. Perfectly smooth, only the swell.

Q. You were out at the "Celtic Chief" during

(Testimony of William Wiesbarth.)

Wednesday? A. Yes.

Q. What time of day was it that the Miller Salvage Company passed its wire line and anchor?

A. That morning. Next morning, daylight.

Q. When did she put the line aboard?

A. Ten or eleven.

Q. Was the wire aboard the "Celtic Chief" and fastened to the tackle? A. In the afternoon.

Q. Do you remember when the "Arcona" first came out? A. Just about somewhere around noon.

Q. Where were you at that time?

A. I was aboard the "Celtic Chief."

Q. You were on the "Celtic Chief." Did you observe when the "Arcona" came there what took place?

A. Yes. She made one wire fast and steamed on it. Then the wire broke. That was a wire about as big as my thumb. [993—149]

Q. Where was the "Intrepid" at the time?

A. She was right fast astern.

Q. When did you say that her line was parted? The "Intrepid's" line was parted? Didn't the "Intrepid"—didn't she part a line?

A. No, they cut it.

Q. Who cut it?

A. The mate aboard the vessel.

Q. Aboard the "Celtic Chief"? Do you know why he cut the line?

A. They sent a letter on board and told them to get out. The captain said, "No, I was the first man to get a line aboard and I'll hand on to it. If you cut, it's up to you."

(Testimony of William Wiesbarth.)

Q. That is the captain of the "Intrepid" that you are speaking about? A. Yes.

Q. Do you know why the "Celtic Chief" officers told the "Intrepid" to get out of the way?

A. Because there was a big ship coming and that vessel had no room now and they thought the "Arcona" would do more than that little towboat, but I think the "Intrepid" would do a little better than the "Arcona."

Mr. OLSON.—I move to strike.

The COURT.—Motion is granted.

Q. Do you know how much horse-power the "Arcona" had? A. No, I don't know.

Q. Had no idea? A. No.

Q. Do you know how much horse-power the "Intrepid" has? A. I don't know.

Q. Therefore, you had no reason for arguing that the towboat could do better? A. No.

Q. You don't know how powerful either vessel was? A. No.

Mr. WARREN.—I object to that certainly if that last answer has gone out.

The COURT.—Strictly, I believe, Mr. Olson, you have got to take the ruling and stand or fall by it. We will let that stand.

Mr. OLSON.— [994—150] Q. Now, Captain, what time of day was it—oh, the wire was then cut by the mate of the "Celtic Chief" when the "Intrepid's" captain refused to yield her berth to the "Arcona." That's correct? A. Yes, sir.

Q. Now, what time of day was that?

A. Somewhere around dinner-time.

(Testimony of William Wiesbarth.)

Q. About noon?

A. Either little after noon or little before noon.

Q. When the "Intrepid's" line was cut what did the "Intrepid" do?

A. She ran a little way off and anchored.

Q. What did the "Arcona" do?

A. She got in there amongst the steamers and made a line fast.

Q. She took the position, did she not, of the "Intrepid"? What position did she take with reference to the position formerly occupied by the "Intrepid"?

A. Behind the "Celtic Chief."

Q. That was the position that the "Intrepid" had had?

A. About nearly the same place where the "Intrepid" had been.

Q. Now, I'll ask you as soon as she had taken that position, what did she do?

A. Passed a small hawser, wire cable, aboard.

Q. Do you know what kind of a cable that was?

A. Yes. It was about, it was about a three inch.

Q. In circumference? A. Three inches around.

Q. Might it have been about an inch and a quarter in diameter? A. About that.

Q. That was a twisted steel wire?

A. Steel wire.

Q. Where did she make fast to the "Celtic Chief"?

A. On the deck aft on the starboard side.

Q. Where did she pass it through the bulwarks of the vessel? A. Through the chock. [995—151]

Q. And fastened it where?

A. On the mizzenmast.

(Testimony of William Wiesbarth.)

Q. You are sure it wasn't the mainmast? It was either the mizzenmast or the mainmast?

A. Either mast.

Q. Then what did she do?

A. She pulled on it and the line parted.

Q. Now, then, do you know whether the "Arcona" had an anchor out forward?

A. Yes, they all laid out their anchors.

Q. Where were you at the time that the "Arcona" was taking her position and putting her line aboard the "Celtic Chief"?

A. I think I was on the "Celtic Chief."

Q. Were you able to observe the size of the anchor?

A. I couldn't look through her, no. I couldn't look around her.

Q. You didn't see her anchor?

A. I didn't see her anchor.

Q. Did you observe what the "Arcona" was doing when she made her line taut?

A. She made her line taut.

Q. Do you know whether or not she did that by the power of her propeller or not?

A. I think that was the power of her propeller.

Q. Do you know? A. I didn't see.

Q. It might have been her steam winch?

A. I didn't see that.

Q. You don't know which it was?

A. I know the line parted, the wire parted.

The COURT.—I understand you do not wish to make any observation or suggestion as to whether the winch had anything to do with it or not?

Mr. OLSON.—Q. You don't know whether the

(Testimony of William Wiesbarth.)

winch had anything to do with it or not?

A. No, sir. [996—152]

The COURT.—Not only that, you don't wish to make a suggestion one way or the other?

A. That I didn't see.

Mr. OLSON.—Q. Then what did the "Arcona" do after the line had parted?

A. Fastened another wire.

Q. Where did she make that fast?

A. Made it fast on the starboard side of the deck, of the main deck and made it fast to the mainmast.

Q. Do you know whether or not she made any other line fast? A. She had one fast on the other side.

Q. Do you know what kind of a line the line on the port side was? A. I didn't see that.

Q. Do you know what kind of a line she put in last on the starboard side?

A. I don't know where they got the lines.

Q. Were they wire lines both of them?

A. Wire.

Q. About an inch and a quarter each?

A. That was about the size of the wire.

Q. Both wires? A. I didn't see that port wire.

Q. Do you know whether or not the "Arcona" ever pulled on those lines that she made fast to the "Celtic Chief" by means of her propeller?

A. Yes.

Q. Prior to the time that the "Celtic Chief" came off? A. I didn't see it. I don't know that.

Q. Do you know that after the "Celtic Chief" did come off she steamed out to sea with the "Celtic Chief" in tow? You know that? A. Yes, sir.

(Testimony of William Wiesbarth.)

Q. Do you know whether or not in the course of the conversation [997—153] between the German lieutenant of whom you have spoken and Pilot McCaulay and Captain Henry, anything was said as to the “Arcona’s” steaming by means of her propeller, pulling by means of her propeller?

A. Yes. When the vessel come off and they fire three stars they should go full speed ahead.

Q. When the vessel comes off they were to go full speed ahead? A. Yes.

Q. That is what he said? A. Yes.

Q. They did that?

A. Yes. Pulled their anchors up and went full speed ahead.

Q. The signal was given, was it, in accordance with the understanding that you have spoken of?

A. They fired the revolver, the three shots in one lick.

Q. And the “Arcona” thereupon steamed on out with the “Celtic Chief” in tow? A. Yes.

Q. Now, it’s your reason, is it, for thinking that the “Arcona” was not pulling after that time, that you expected that the vessels were not to be pulling until the signal was given, is that correct? A. Yes.

Q. That’s the reason why you think that the “Arcona” was not pulling? A. Yes, on Wednesday.

Q. On Wednesday night she might have been pulling?

A. She didn’t do it. When the vessel came off I seen the wire hanging slack so that proved that there was no winch or anything attached to that wire to heave in the slack.

(Testimony of William Wiesbarth.)

Q. You observed when the "Celtic Chief" came off that the Miller wire was slack?

A. And saw that the "Arcona's" wire was slack.
[998—154]

Q. And the same thing happened to the "Arcona's" wire? A. Yes.

Q. How do you account for it that the Miller Salvage Company was heaving on their wire and it was slack?

A. We were heaving them tackles as taut as we could and the line was taut all the time. Little by little slack up and we took in the slack again then I went to get Miller.

Q. Where were you standing at the time that the "Celtic Chief" came off?

A. I was down there aft on the poop in amidships toward the capstan.

Mr. WARREN.—Speak a little louder.

The WITNESS.—I was amidships on the poop on the tackle.

Mr. OLSON.—Q. Where were you at the time that the vessel gave her jump? A. Standing on deck.

Q. What part of the deck?

A. About amidships.

Q. On the main deck?

A. Yes. When she gave the jump she didn't come off. She gave a bump with the swell.

Q. At the time that she finally came off and the Miller anchor line became slack, where were you standing?

A. I was amidships. I was up on the poop. I had to get the tackle off.

(Testimony of William Wiesbarth.)

Q. It was that time that you noticed the Miller wire was slack? A. Yes.

Q. And you notice the "Arcona's" line slack?

A. Yes.

Q. And you noticed also that the wires of Inter-Island steamboats were slack?

A. They were hanging slack.

Q. And for that reason you think that the "Arcona" was not pulling? Do you know? Isn't this the reason? Do you know? [999—155] State whether or not you know. Isn't this the reason why the arrangement was made that the vessel should steam full speed ahead when the "Celtic Chief" was about to come off in order to prevent the "Celtic Chief" from ramming the other vessels?

A. Well, she had to get out of the way.

Q. Was that the reason?

A. They noticed the vessel was coming loose and coming off, then they should exert a little more strength and try to pull her off and get her off.

Q. Did you observe more than once through this hour or so while the "Celtic Chief" was gradually coming off, that the Inter-Island vessels were not turning up any water by their propellers?

A. Yes.

Q. And you say you told Captain Miller that you thought she was coming off?

A. Yes. I could see it by the bearing of the lights.

Q. How long was that before she actually came off?

A. It might be possibly an hour or half an hour. Something like that.

Q. An hour or half hour after you told Captain

(Testimony of William Wiesbarth.)

Miller? A. Yes.

Q. Do you know whether either Captain Miller or anyone under his direction notified anybody else that the "Celtic Chief" was coming off?

A. I told Captain Miller and he says, "Now we'll show them a little thing," he says.

Mr. OLSON.—I move to strike on the ground it is not responsive.

The COURT.—I overrule the objection.

Mr. OLSON.—I move to strike—I'll ask one more question. To whom did he make that statement? To whom did Captain Miller make that statement?
[1000—156] A. He said it to me.

Q. Did he say it to Captain Henry?

A. He was down in the cabin.

Q. Did he say it to any of the Inter-Island Steam Navigation Company men?

A. Not that I seen any around.

Mr. OLSON.—I move to strike on the ground it is not responsive to my question and on the ground it is hearsay. I withdraw my motion.

Q. Now, then, Captain Wiesbarth, continue your answer. Captain Miller said, "Now we'll get her off"?

A. We come along we went down on the fore deck and, "get all hands on the tackle and pull like hell. Pull like the devil," he says. We kept going with the capstan around and in a little while she was coming more and more and she come off.

Q. It took about an hour?

A. No, it didn't take an hour.

Q. Half hour?

(Testimony of William Wiesbarth.)

A. Oh, half hour she came off then.

Q. Where was Captain Henry all this time?

A. When I went aft to Captain Miller he was down the cabin.

Q. Did he stay down there?

A. I don't know how long he stayed there. After I went to Captain Miller I saw him on the after deck.

Q. When did you first see Captain Henry on deck?

A. I didn't notice that.

Q. Didn't you state on direct testimony when the vessel gave those bumps and came off they were down there in the cabin, Captain Henry and Captain McCaulay remarked about the time?

A. Captain McCaulay sung out, "Hoist the lights."

Q. Where was Captain Miller all this—from the time you first spoke to him until she finally came off?
[1001—157]

A. When I told Captain Miller he was on the poop.

Q. Where was he after that?

A. He went again aft.

Q. He didn't go down to Captain Henry or Captain McCaulay? A. I couldn't tell you that.

Q. Did he go aft? A. We went aft.

Q. Where was the cabin?

A. I don't know where he was.

Q. I thought you said that when the vessel finally came off that Captain Henry and Captain Miller were in the cabin?

A. She only gave a bump, then they were down below. She gave another bump and they come up.

Q. How long after that was it she finally came off?

A. It might have been twenty minutes or so or half an hour.

(Testimony of William Wiesbarth.)

Q. You stated, I believe, on direct testimony, direct examination, that when the main tackle, the first tackle, was being made fast and put in position, that the steam winch of the "Celtic Chief" was used for the purpose of heaving in on that tackle. Was that correct?

A. Only off and on whenever we could get a chance and there was no boat loading fertilizer. When they seen there was another boat coming again we didn't use the winch.

Q. You saw that winch used, did you?

A. Yes, I seen it used.

Q. It was used during Wednesday morning?

A. Yes. Up till in the evening. About, might be, two or three o'clock the captain comes himself and told them, "You can't take any more turns on this winch. We have to discharge that freight."

Q. At the time that the steam winch was used, did you see that engine, donkey-engine?

A. I seen the engine, yes.

Q. Do you know what kind of engine it was?

A. Upright boiler and engine. [1002—158]

Q. You don't know its power?

A. No. Power?

Q. Did you have any means of observing how powerful that winch was? A. I think—

Q. Just a moment. I don't want what your opinion was. I want to know. A. No, I think that—

Q. I am not asking for your opinion as to how powerful it was. I am asking you if he had any means for observing how powerful it was? A. No.

Q. Was the Miller Salvage Company discharging

(Testimony of William Wiesbarth.)

any cargo on Wednesday? When did the Miller Salvage Company stop lightering cargo?

A. On Tuesday morning about four o'clock.

Q. Didn't discharge any cargo or lighter any cargo on Tuesday at all after four o'clock in the morning?

A. That was discharging the "Kaena" on the wharf.

Q. Do you know why it was?

A. We was discharging over on the wharf.

Q. Why didn't you go out there again?

A. We had no more vessels.

Q. Why didn't you use the "Concord" and the "Kaimiloa"? A. They wasn't discharged.

Q. When were they discharged?

A. I couldn't tell.

Q. Tuesday?

A. I couldn't tell. We was discharging on Tuesday morning until afternoon about two o'clock. When we got through we went and took the anchor and went out again six o'clock that night; about seven. [1003—159]

Q. From the time the cargo was being loaded from the "Celtic Chief" on your boat you state that you observed that the "Celtic Chief" kept coming farther ashore as she was lightened more and more?

A. Yes.

Q. Was that because she became lightered and the swell? A. It might be the swell.

Q. And by taking a little cargo out that all would help to lighten the vessel and she would be lighter, well, might have been a little heavier, you could say gradually she was going ashore and still the Miller

(Testimony of William Wiesbarth.)

Salvage Company kept taking out cargo?

A. I don't know what that was for. I had orders to fill her up.

Q. You had no other connection with the matter excepting to obey orders?

A. He was there himself.

Q. Captain Miller was one of the officers of the Miller Salvage Company, was he not? A. Yes.

Q. Going back to the time when the "Celtic Chief" finally came off the reef and these other vessels started full speed ahead, did you observe the line of the "Mikahala"? A. They cut that line.

Q. How soon after the "Celtic Chief" actually came off the reef?

A. As soon as she got off they cut that line and they went fast, as fast as they could.

Q. Was that line cut before the "Celtic Chief" got close up to the "Arcona"?

A. As soon as they seen the signal they started. I think all their engines were pulling on it. [1004—160]

Q. I'll ask you whether that was not by the time that the "Celtic Chief" had come up close to the "Arcona."

A. It was all that same time. While the vessels were getting off and they got the signal to go ahead. To clear the vessels they had to cut the line to get away.

Q. My question is not whether or not they cut the lines. We know that they cut the lines because you have said so, but I am asking you if the "Mikahala's" line was cut before?

(Testimony of William Wiesbarth.)

A. No. I think they all went off with the vessel and tried to get away from it. It takes some time to let a big anchor go. Eight or nine inches that was around the bitt with lashings on it; it would take some time to let go that.

Q. So the "Mikahala's" line all the time the "Celtic Chief" started to tow the "Celtic Chief" to deep—can't you answer my question? Was it cut before or after the "Arcona" started to tow the "Celtic Chief" to deep water?

A. When the "Arcona" went ahead with her then they cut that line.

Q. Can't you answer my question? Was it cut before or after the "Arcona" began to tow the "Celtic Chief"?

A. After she towed. She took her in tow. She didn't pull the other vessel around. The vessel had to go to her anchor.

Q. Then the "Arcona" was already towing the "Celtic Chief" out to deep water when the "Mikahala's" line was cut?

A. Yes, sir. They were all pulling on it then. All the steamers full speed ahead.

Q. Do you know whether or not the "Arcona" was under way as quickly as the other vessels?

A. I think they were all about the same.

Q. Were you taking any observations on Wednesday morning?

A. No. I had to attend to my work hauling the steamer around; [1005—161] hauling men off the "Celtic Chief."

Q. When did you take your last observation as to the position of the "Celtic Chief" on Wednesday

(Testimony of William Wiesbarth.)

morning? A. About dinner time; eleven o'clock.

Q. You had been taking observations off and on on Wednesday?

A. I couldn't see nothing from the vessels I was on.

Q. So you don't know whether or not the "Celtic Chief" was going further aground on Wednesday morning? A. I couldn't see.

Q. But you did notice?

A. When they had the wire out I didn't see she was going ashore any more.

Q. When the Miller anchor line was made fast, will you state whether or not the "Arcona" had both of her lines made fast yet?

A. No, they wasn't fast. We started in early in the morning and nine or ten o'clock we passed the cable aboard and then the men that were in the "Celtic Chief," our crew, they were putting the tackles on.

Q. About what time of day was it that that anchor line was made taut?

A. About twelve o'clock or little after.

Q. What time was it that the "Arcona" had her lines made fast?

A. She came there about dinner-time.

Q. She had her lines fast about twelve o'clock?

A. About one o'clock or after.

Q. When did you make your first observation as to the position of the "Celtic Chief" after the Miller Salvage Company had made this line fast?

A. That was after dinner.

Q. About one or two o'clock?

A. About one o'clock.

(Testimony of William Wiesbarth.)

Q. About the time that the "Arcona" had made her lines fast?

A. She made them fast at that time. [1006—162]

Q. As far as you know, it might not have been the Miller anchor that pulled the "Celtic Chief" off the reef?

A. I don't know what else it could be?

Q. You don't know whether or not it was that or some other vessel? Might it have been the "Arcona's" power?

A. I don't know.

Q. It might have been as far as you know?

A. It might have been.

Q. How many men at work on the capstan while you were heaving in on the tackle?

A. Forty or fifty men.

Q. What were the other eighty or ninety men doing that you had about there?

A. They was all around attending to overhauling the tackles and making it fast again; standing by; handling everything.

Q. Did it take eighty or ninety men to do that?

A. We had the men employed.

Q. But could eighty or ninety men be kept busy taking care of those tackles in addition to the men on the capstan?

A. There was no use for them. The men was aboard that time, how could we get them ashore.

Q. How many men were needed to take care of the tackles?

A. You need easily fifty or sixty men.

Q. Fifty or sixty men taking care of the capstan and tackles?

A. Yes.

Q. Then there was no other place there for them?

A. Not in that afternoon.

(Testimony of William Wiesbarth.)

Q. Was there that night, Wednesday night?

A. When the tackles were taken off we would use them.

Q. You used fifty or sixty men at a time?

A. Probably more.

Q. Was it more or less? [1007—163]

A. All the men was employed more or less and off and on.

Q. But you think that about fifty or sixty men could be used?

A. Yes. You must think there was the steamer lying outside. That was the "Mokolii" and there were some men aboard that.

Q. What was the "Mokolii" doing out there?

A. She was towing the "Makee" in.

Q. Didn't the "Mokolii" have a crew?

A. She had a crew aboard too.

Q. What was the next—how many had the "Mokolii" besides the crew? A. I don't know.

Q. As a matter of fact, you don't know how many of these men were working at all?

A. I know they were all there and there was one hundred and twenty-five men we started off with.

Q. You don't know what they did?

A. They were working all the time passing the cargo out.

Q. Was the Miller Salvage Company lightering all the time? A. Not on Wednesday.

Q. What were these one hundred and twenty-five doing on Wednesday? A. Working the tackle.

Q. Didn't you say only fifty or sixty could be used?

A. That would be enough.

(Testimony of William Wiesbarth.)

Q. Then the other fifty or sixty were not needed?

A. They were all there. They was doing something.

Q. What were they doing?

A. Anything. Passing on rope, giving a hand here and a hand there. We employed them the best we could.

Q. Let me ask you this, Captain. From the time that your Miller anchor line was made taut early on Wednesday afternoon, how many men were needed to take care of the tackle and capstan [1008—164] from that time on until the vessel came off somewhere about midnight?

A. If you had sixty men that would be a fair crew.

Q. That would be as many as you needed to use?

A. Yes.

Q. What time of night was it that you arrived on the scene of the stranding on Tuesday with the anchor aboard the "Makee," the "James Makee"?

A. Tuesday.

Q. Tuesday evening, what time?

A. About six or seven.

Q. Was it dark yet? A. It was about dark.

Q. Why were you unable to locate that anchor that evening? A. We couldn't place it.

Q. Why not?

A. Because of them steamers towing on her and we couldn't get in in there in the night. We couldn't keep clear of the lines that were on the vessel.

Q. You did drop the anchor, did you not?

A. In the neighborhood and near to the stern but clear of the other boats.

(Testimony of William Wiesbarth.)

Q. How far did you shift that anchor the next day?

A. Shift it in to the right position.

Q. How far?

A. About nine hundred feet off the "Celtic Chief's" stern.

Q. How far from the "Celtic Chief's" stern had you dropped that anchor the night before?

A. A little farther off.

Q. How much farther off?

A. Possibly fifteen hundred or a thousand feet.

Q. Didn't you testify on direct that you dropped that anchor about a thousand feet?

A. Yes, I know. We couldn't go there.

Q. Didn't you testify that you dropped that anchor about a [1009—165] thousand feet away? Didn't you, on Tuesday night, according to your direct testimony, drop that anchor about a thousand feet astern of the "Celtic Chief"?

A. Yes, we dropped it there but that wasn't right exactly astern. It was a little on the side of that position. We couldn't go in there where them vessels were.

The COURT.—How far did you move that anchor the next morning from where you placed it.

A. We didn't lay exactly astern of her. We laid a little on the side. We got to go in between them steamers.

Q. You couldn't say how many feet?

A. I couldn't say how many feet.

Q. Was it considerable distance?

A. It was quite a little up. To get between those steamers we had to watch for two or three hours to

(Testimony of William Wiesbarth.)

get in position. There was no room between them hawsers and all the vessels were steaming.

Q. Where did the "Makee" stay that night?

A. Laid to and anchored.

Q. Now, I want to ask you why it was that you dropped that anchor if the "Makee" had no other business than to stay there?

A. That I don't know. Captain Miller said, "Let go the anchor," and we dropped it.

Q. Captain Miller was aboard? A. Yes.

Q. Isn't it the fact that you intended that night to lay that anchor?

A. No. In the morning we found out that this was a better place to go right in there.

Q. Did Captain Henry have anything to say about that matter?

A. I don't know. Captain Miller was my boss.

Q. You don't know what Captain Henry had to say? A. I wasn't aboard. [1010—166]

Thursday, August 10, 1911.

Q. Captain Wiesbarth, or Weisbarth?

A. Wiesbarth.

Q. Captain Wiesbarth, will you kindly repeat the names of the different Miller Salvage Co. vessels which you had charge of in the course of the operations out there in connection with the "Celtic Chief"?

A. It was the "Concord."

Q. The "Concord?"

A. And the "James Makee."

Q. "James Makee"? A. That's all.

Q. No others? The "James Makee," I think you said, went out under her own steam the first time.

(Testimony of William Wiesbarth.)

A. The first time.

Q. She didn't go out under her own steam after that?

A. No. We got towed out by the "Mokoli."

Q. And that was because the United States Inspector locked the engine of the "Makee"?

A. The propeller.

Q. He wouldn't permit you to run her under her own steam? A. Yes.

Q. You are pretty familiar with both of those vessels, the "Concord" and the "James Makee"?

A. What?

Q. You are quite familiar, are you not, with the "Concord" and the "James Makee"?

A. Yes, sir.

Q. Are they old boats?

A. They are about thirty years, I should say; both of them.

Q. Both of them. How old is the "Mokoli"?

A. She must be just as old. Thirty. [1011—167]

Q. What are they constructed of—wood, iron, or steel? A. Wood.

Q. Wood. They are wooden vessels. Were you familiar with those boats many years ago?

A. The "Makee," yes. I know her and I know the "Mokoli" and I know the "Concord" when she was in Honolulu.

Q. Great many years ago?

A. Yes, not so many years ago. Maybe ten or twelve years.

Q. What was the condition of the "James Makee" with reference to her being sound or unsound, good

(Testimony of William Wiesbarth.)

condition or in bad condition, at the time the "Celtic Chief" operations took place?

A. She was in good condition.

Q. She was an old boat, however?

A. An old boat.

Q. Thirty years old?

A. About thirty years.

Q. She couldn't very well be in good condition in the sense of a comparatively new boat?

A. I should say—

Q. Pardon me?

A. She could steam as ever before and do the hoisting whenever she had to do anything with the donkey.

Q. I am not referring to that. I am referring to the condition of her hull.

A. That was in good order.

Q. First-class order?

A. First-class order, yes, because she was inspected just the year before. You know that when the vessels don't leak and she can carry a load of freight and if she can carry them I think she is in good order. [1012—168]

Q. And that's the reason you think she was in good order? A. I say she was in good condition.

Q. You even say she was in first-class condition?

A. I say in good condition.

Q. In other words, she was in such condition that the inspector would permit her to operate?

A. Yes.

Q. And that's all you can say?

A. That's all I know.

(Testimony of William Wiesbarth.)

Q. What about the "Concord"?

A. The "Concord," she carried a full load of guano; she didn't make no water; she was all right.

Q. But you don't know of your own knowledge whether she was in first-class condition or simply in such condition as the United States inspector would permit her to operate? A. That was all right.

Q. You don't know whether she was in first-class condition, A No. 1?

A. I know she could carry freight.

Q. You have been a seafaring man for a good many years? A. Yes.

Q. You know, do you not, that there are vessels permitted to run which are not as good as new vessels?

A. A brand new vessel I should say is better than an old one, but still they get permission to run and in good order and they get licenses for good condition.

Q. What about the "Mokoli"?

A. The "Mokoli." She was in good order; all overhauled; had a new gasoline engine put in and ran in good order.

Q. How about her hull? [1013—169]

A. The hull is all right.

Q. First-class condition?

A. First-class condition; she carries a full load.

Q. Your idea of good order is whether or not the vessel runs?

A. If the vessel can carry her freight and in good condition and could get a license, I think she is in good order.

(Testimony of William Wiesbarth.)

Q. Your reasons for thinking that these vessels were in good condition is because they were permitted to operate by the United States officials?

A. Yes, sir.

Q. Had you ever had anything to do with this anchor that was used by the Miller Salvage Co. in connection with the "Celtic Chief" salvage prior to that time?

A. No. They used that anchor on the "Manchuria" when she was ashore.

Q. You know that?

A. I knew that Captain Miller bought it from the underwriters.

Q. Where was the anchor during the week preceding the time that it was taken by Captain Miller to the "Celtic Chief"?

A. He had it, stowed it somewhere on the wharf. They took it off the Hackfeld wharf.

Q. That's where it had been during the week or so preceding? A. That's what I think.

Q. Do you know whether it was there or don't you?

A. I don't remember that. I know he hauled her from Hackfeld wharf.

Q. Don't you know that that anchor was on the wharf there [1014—170] for some days preceding? A. No.

Q. You know it was in Honolulu?

A. It was in Honolulu.

Q. You know it was not in use?

A. It was not in use.

Q. It belonged to Captain Miller? A. Yes.

(Testimony of William Wiesbarth.)

Q. And the "Celtic Chief" went aground on what day? A. On Monday morning or Sunday night.

Q. And the anchor was brought out to the "Celtic Chief" on what day?

A. On Tuesday evening about seven o'clock when we got there.

Q. That anchor could have been brought out immediately, could it not?

A. Yes, if he gave orders to bring the anchor out we might have taken it out the first thing.

Q. It could have been done?

A. If there were orders for it.

Q. These vessels, the "Makee," "Concord," and "Mokoli," were all available for taking that anchor out on Monday, were they not?

Mr. MAGOON.—Object to it on the ground it is not relevant or material.

The COURT.—Objection overruled.

Mr. OLSON.—Answer the question, Captain.

A. If we had got orders Monday morning we could have stuck it in the "Makee."

Q. You could have? A. I didn't get orders.

Q. But you could have taken it if you had been ordered to do so by Captain Miller? [1015—171]

A. I didn't have no orders.

Q. You could have done so?

A. Yes, I could have done it.

Q. If it had been taken out on Monday morning, Captain, it could have been laid just the same as it was laid on Wednesday morning; could it not?

A. I think it could.

Q. It could have been? A. Yes, I think so.

(Testimony of William Wiesbarth.)

Q. Would the "Celtic Chief" have gone further ashore, as you have testified that it did during Monday and Tuesday, if the Miller anchor had been brought out Monday morning and used?

A. I think if the anchor had been brought in earlier the vessel would have stayed a little farther out.

Q. You are sure of that?

A. I wasn't sure but it might have been that way.

Q. You have testified, have you not, that the Miller anchor prevented the "Celtic Chief" from going further ashore? A. Yes, on Wednesday.

Q. Wouldn't the same thing have happened on Monday if the anchor had been brought?

A. I think so.

Q. You are sure of that?

A. Yes, I think so.

Q. When did you first get the orders to bring out this anchor?

A. On Tuesday. We had to discharge the fertilizer first.

Q. You got the orders on Tuesday?

A. On Tuesday. [1016—172]

Q. Who gave you that order?

A. Captain Miller.

Q. That anchor belongs to the Miller Salvage Co., does it not?

Mr. MAGOON.—I object to it; it's been answered before, many times.

The COURT.—It may be answered again.

The WITNESS.—Will you please repeat it?

Mr. OLSON.—Q. That anchor belonged to the

(Testimony of William Wiesbarth.)

Miller Salvage Company?

A. Captain Miller told me. He says, "That's my anchor. I bought it," so it must belong to him.

Q. I think you testified, Captain, did you not, that there was, according to your understanding, an arrangement made under which some signals were to be fired off and when these were fired off the vessels were to pull straight ahead?

A. That was the understanding.

Q. When was high water Wednesday?

A. About twelve o'clock.

Q. Wasn't it the time—

A. I can't remember the time because I have no watch and there was no bells struck on board the vessel.

Q. According to your judgment, wasn't it about midnight that the vessel came off?

A. About midnight.

Q. Was the moon shining that night?

A. No, sir.

Q. Dark night? A. Dark night.

Q. Some clouds over the sky, were there not?

[1017—173] A. It was dark.

Q. Pitch dark? A. Well, it was dark.

Q. Can't you answer a little more definitely than that? Was it pitch dark?

A. It was about full dark. I can't explain it any better.

Q. Was the sky cloudy? A. Yes, cloudy.

Q. All over? A. That I couldn't tell you.

Q. But it was generally cloudy?

A. Yes, it's cloudy.

(Testimony of William Wiesbarth.)

Q. Where were you at the time that the "Celtic Chief" actually came off the reef?

A. I was in the midships watching the tackles.

Q. You were on the "Celtic Chief"?

A. Yes, on the "Celtic Chief."

Q. Now, what was your particular duty?

A. To see and heave, to heave the wires tight all the time and keep it tight.

Q. Were you paying pretty close attention to that?

A. Yes.

Q. Were you helping to pull?

A. No, I didn't pull nothing.

Q. Where were you standing at the very moment that the vessel came off?

A. Well, she was quite a little while coming off.

Q. When she actually came off?

A. I take a bearing of it, the lights on the channel buoys and a certain mark on the vessel and look across that I could see she was coming off.

Q. Where were you standing at the time she actually came off? [1018—174]

A. When I was going aft on the deck.

Q. You were heaving in on the tackle of the Miller Salvage Co. A. The men; yes.

Q. And you were right there?

A. Amidships on the tackle blocks.

Q. Now, I'll ask you where was the tackle located with reference to the sides of the vessel.

A. Right from aft to forward on the starboard side.

Q. How near the bulwarks?

A. Right amidships, along the decks.

(Testimony of William Wiesbarth.)

Q. How near the bulwarks?

A. It was ten or fifteen feet, at least.

Q. Where was the "Arcona's" position at that time with reference to the "Celtic Chief"?

A. She was right astern.

Q. She was astern?

A. Of the "Celtic Chief."

Q. Directly astern, was she not?

A. As near as I remember it.

Q. You could see what she was doing all the time?

A. I don't know what they was doing.

Q. You could see the vessel plainly?

A. See the vessel.

Q. You could see whether or not she was turning up water?

A. I couldn't see no turning up by the propeller.

Q. You couldn't see that? A. No.

Q. But you could see the "Arcona"?

A. Could see the "Arcona."

Q. She had two lines placed on the "Celtic Chief"?

A. Two lines. [1019—175]

Q. Wire lines? A. Wires.

Q. One on the starboard side and one on the port?

A. Yes.

Q. Those lines passed through the sides of the vessel through a chock? A. Yes.

Q. And were fastened where?

A. One was made fast to the mainmast.

Q. Where was the other one?

A. I didn't see that one made fast.

Q. They were about on the level of the deck?

(Testimony of William Wiesbarth.)

A. It was about a foot or foot and a half off the deck.

Q. They went through a chock, did they not?

A. On the side in a chock. The wire came in and made fast to the mainmast.

Q. Now, then, Captain, what was the construction of the "Celtic Chief's" deck, the deck on which you were standing? Give an idea. Was there any superstructure?

A. She had a lot of house near the cabin there, a poop deck.

Q. How high was that poop-deck?

A. Six or seven feet.

Q. Higher than your head. Were the sides of the vessel constructed about the poop deck solid or were there spaces underneath?

A. She got a round stern and there is the house right here.

Q. And the sides of the vessel came to the deck?

A. It was seven feet.

Q. The poop deck and the mainmast?

A. About seven feet. [1020—176]

Q. That was the walls of the vessel?

A. Yes.

Q. And they came up to the poop deck?

A. Yes, the house was builded up about seven feet high.

Q. You couldn't stand in the middle of the vessel there and look directly astern underneath the poop deck?

A. No, you couldn't look through it down below.

Q. How high were the sides of the vessel on the

(Testimony of William Wiesbarth.)

main deck forward of the poop deck? About how high? A. About four feet.

Q. Then, Captain, the construction of the vessel was such that the sides of the vessel along the main deck from amidships, were about four feet high until you came to the poop deck and then they raised up six or seven feet and then from the poop deck onward, you had a solid portion which would prevent your looking underneath it?

A. You couldn't look through underneath. You could go on top.

Q. I've correctly described the vessel?

A. You've got that all right.

Q. I want to know how you know that the lines of the "Arcona" were slack?

A. I wasn't on the tackle all the time. I was on the poop deck watching the wire and watching every move of it. I was all around. I was on the forward deck and I was on the after deck.

Q. I repeated the question several times. Didn't you answer each time that you were at the tackle amidships when the vessel finally came off the reef?
[1021—177]

A. When the vessel came off and our wire slackened up I went up on the poop deck.

Q. At the moment she came off, you were at the tackles?

A. That took an hour before the vessel came off.

Q. Do you desire to change your testimony and say now that you were not at that tackle at the time the vessel came off?

A. I told you that I was tending to the wire and

(Testimony of William Wiesbarth.)

to the tackles and the whole business and the vessel came off and the wire slackened then I went aft there and was busy to get the tackle off.

Q. Then you were not about amidships when the vessel came off the reef finally?

A. Not when she was off.

Q. Why did you say a few moments ago that you were amidships?

A. I also said when we were heaving the vessel then I went amidships and watching the tackles.

Q. How do you know that the "Arcona" was not actually pulling by means of her propeller at the time that the "Celtic Chief" finally came off the reef?

A. When she came off they heave that in with the signal and shot them lights off and they started on to pull. Then the vessel were off the reef and then they had to let go the lines from the other vessels to keep clear and I had to see the tackle off.

Q. The reason why you believe the "Arcona" was not pulling then, was because at that time those signals hadn't gone off? [1022—178] A. Yes.

Q. It was not because you saw the lines?

A. I saw the lines when she was off, that they were hanging slack.

Q. After she was off you saw the lines?

A. Yes.

Q. In other words, the "Celtic Chief" almost rammed the "Arcona"?

A. She got about halfways out to her.

Q. How long were the lines between the "Celtic Chief" and the "Arcona"?

(Testimony of William Wiesbarth.)

A. I think about eight or nine hundred feet.

Q. And you went four or five hundred feet to the "Arcona" and went out to sea? A. Yes.

Q. What happened to the Miller line when the "Celtic Chief" came off?

A. Took the tackle off and slipped the wire overboard.

Q. Before you took the tackle off and slipped the wire overboard, what happened to that line?

A. Our line slackened all up.

Q. It became slack just like the "Arcona's" lines?

A. Yes, then the vessel came off.

Q. In other words, they all became slack?

A. Them lines were hanging slack.

Q. Do you remember when the "Arcona" first placed her lines aboard the "Celtic Chief"?

A. Yes, that was about dinner-time.

Q. About— A. About noon.

Q. About noon of Wednesday?

A. Yes, either a little before or little after.

[1023—179]

Q. Just about the same time as the Miller anchor line was made fast?

A. We had that all hauled tight in the morning.

Q. About what time? A. About eleven o'clock.

Q. What time was it that the "Arcona" broke her first line? A. Just after she had made it fast.

Q. A little after noon?

A. They just pull a minute when the line parted.

Q. Do you know how she was pulling?

A. I think she steamed ahead on it.

Q. You don't know? A. I didn't see it.

(Testimony of William Wiesbarth.)

Q. It might not have been?

A. The wind could not blow her off and break the line.

Q. It was impossible unless she steamed ahead by means of her propeller?

A. Yes. If she steamed ahead she broke the line with her propeller.

Q. You have been a seafaring man how many years? A. Thirty-five years.

Q. Are you prepared to testify that that line might have been broken by heaving in on the anchor line?

A. I don't know.

Q. That's a possible way of doing it?

A. I couldn't tell you if they are able to break the wire that way.

Q. If they had a powerful enough steam winch they could have done so?

A. It must be very powerful.

Q. Do you think, as a matter of fact, that a vessel pulling by means of her propeller could exert more power than heaving on her anchor chain?

A. That's what I think. [1024—180]

Q. Then I take it, Captain, that you believe also that the Inter-Island Steam Navigation Company, pulling by means of their propellers, could have done better and stronger work than the Miller anchor could have done? A. No.

Q. Why not?

A. The sea is always come in and lifts the vessel up and the weight of the vessel is taken farther.

Q. Wouldn't that also have been true of the "Arcona"?

(Testimony of William Wiesbarth.)

A. Well, that proves there was. The "Mauna Kea" parted that brand new ten or twelve inch hawser of theirs.

Q. Don't you know that she did that by pulling ahead suddenly? A. That's the only way to do it.

Q. And the line carried away? A. Yes.

Q. Do you know that that's what happened in the case of the "Arcona"? A. No, I don't know.

Q. Isn't it a fact that the "Arcona" maintained a steady pull on the wire that it had on the "Celtic Chief" for a considerable time and finally the line parted?

A. I don't know how long she pulled on it. I only seen the wire go over then they made another one fast.

Q. What were the "James Makee," the "Concord," and the "Mokoli" doing from Wednesday noon on? A. The "Concord" was inside.

Q. Was what? A. Was inside.

Q. She didn't go out again?

A. Yes, was alongside the wharf.

Q. What were the "Mokoli" and "Makee" doing?

A. The "Mokoli" was discharging her freight on Tuesday and [1025—181] take in the big anchor.

Q. That was on Monday?

A. Monday night, Tuesday morning.

Q. What about the "Concord"?

A. We had her filled at about five or six o'clock on Monday.

Q. Did she come out and get another load?

A. No.

(Testimony of William Wiesbarth.)

Q. Then, as a matter of fact, all of the lightering of cargo that was done by the Miller Salvage Co., was done before Wednesday noon?

A. That was done on Monday and Tuesday night. There was the "Kaimilou" there.

Q. No lightering had been done after the Miller anchor was laid? A. Nothing after that.

Q. Was any lightering done by the Inter-Island Steam Navigation vessels after that?

A. Yes, they was taking it out by boat.

Q. What was the "Makee" doing after the anchor was laid about eleven o'clock on Wednesday?

A. They laid to and anchored.

Q. Why didn't she go on lightering cargo?

A. I don't know.

Q. You don't know? A. Yes.

Q. She could have done so, couldn't she?

A. She could have gone alongside and got more.

Q. Captain, you have been sailing in these waters in Hawaii for a great many years? A. Yes.

Q. Are you familiar with the discharging of cargo at the various ports from the Inter-Island vessels?

A. Yes. [1026—182]

Q. That's a very difficult process?

A. Yes, some places it's very bad, some places it's good.

Q. Some places it's very hard, nevertheless, although the weather may be bad and the sea rough.

A. As long as they don't capsize the boat or lose them.

Q. It's the regular thing to discharge cargo even though it's fairly rough?

(Testimony of William Wiesbarth.)

Mr. MAGOON.—I object to it. I don't see the object of it.

Mr. WARREN.—If the Court please, I'd like also to interpose an objection. It is not proper cross-examination.

The COURT.—Question allowed.

Mr. OLSON.—I'll supplement that by saying by means of vessels tied alongside of a wharf.

The COURT.—It's proper cross-examination; I'll allow it.

A. Yes, that' so.

Q. And this was by means of boats either lashed or tied or fastened in some way or another alongside the vessel there out away from the shore and not tied to any wharf?

Mr. WARREN.—I'd like to interpose an objection to that; it is going further and further away from this witness.

The COURT.—I allow the question.

A. No. They lay on their oars and pull in, keep the boat going back and forward.

Q. Do they never put a line to the small boat?

A. No line to the wharf.

Q. To the boat?

A. The boat would be lost [1027—183] if tied to the wharf.

Q. I am not asking about the wharf. I am asking if they have a line to the boats?

A. Yes, they have two lines.

Q. Isn't that done very ordinarily as I've stated, in discharging cargo in various ports of the territory out away from the shore and not alongside any

(Testimony of William Wiesbarth.)

wharf and these smaller boats taking cargo?

A. As long as they can work they will work. If it gets too rough they quit.

Q. They do that do they not?

A. They do that except now they get wire cables that saves the boat; hook the wire on.

Q. There are many places where they don't have these wire lines?

A. They have got them in Hawaii.

Q. I say in various landings.

A. In some landings they haven't got it.

Q. They still do discharge in this way?

A. In boats?

Q. Yes.

Mr. WARREN.—I want it understood that my objection goes to all this.

The COURT.—Yes, also Mr. Magoon's.

Mr. OLSON.—Q. State whether or not the state of the sea was such at the time the "Makee," the "Concord," and the "Mokoli" were taking cargo from the "Celtic Chief," was the weather such that they would not have gone in and taken cargo at these Inter-Island ports of the territory where they had cargo to discharge? [1028—184]

Mr. MAGOON.—I object, may it please your Honor; it wouldn't make any difference.

Recess.

The COURT.—I take it that applies to the weather generally and the condition of the sea.

Mr. OLSON.—Yes, I want to get at it to see if there was anything extraordinary.

The COURT.—I allow it with that limitation.

(Question re-read.)

(Testimony of William Wiesbarth.)

A. Well, in some places they would be able to get in and some places they would not be able on account of the swell.

Q. Swell? I'm asking you—what was the amount of the swell?

A. It's all different. Some places it is fine; some places it is rough.

Q. I'm asking you if the—

A. In some places you can't work in other places you can; just how the weather is.

Q. You have testified that the weather was fine.

A. I said there was no wind and a swell.

Q. And a light swell?

A. Light swell; yes.

Q. Did you have any difficulty in discharging cargo? A. We parted two or three hawsers.

Q. Did you have any difficulty?

A. We had to fasten new lines together.

Q. Was there considerable difficulty?

A. There was considerable kicking and banging against her and we put fenders between.

Q. And that took care of it? [1029—185]

A. We put them in between.

Q. Except as to parting of some lines and pulling away of some bitts, the "Mokoli" and "Concord" were not damaged?

A. We parted some lines on the "Kaimilou."

Mr. WARREN.—I would like, at this time, to state my understanding that the Court allowed this evidence to go in on the assumption that it was going to be shown that the conditions were similar on the compared cases and it has not been shown, and I

(Testimony of William Wiesbarth.)

move that all the evidence of this witness as to the comparison of risks in the present case and the unloading of freight in other ports and places, in other boats has not been shown to be similar and should be stricken.

The COURT.—The motion is denied on the ground that the witness has assumed that if the weather and the sea were the same as they were there at the place in question, boats would go in with cargo from outlying ships to the Hawaiian ports.

Mr. OLSON.—Q. Now then, I'm asking you with respect to all of the Miller vessels; did they suffer any other damages excepting parting of lines and carrying away of bitt?

A. Chewing off a little more or less on the sides.

Q. Was there any special damage done?

A. Not that I seen.

Q. After you put in—what did you call them?

A. Fenders.

Q. After you put in these fenders were they hurt at all?

A. Yes. Some of them got in between. They got [1030—186] split.

Q. Damage to the vessel?

A. You can tell there was a good chewing if it split the wooden fenders.

Q. Can't you answer my question?

A. Surely it wouldn't do the vessel no good.

Q. Did they do any damage?

A. I couldn't see it.

Q. Now, Captain, you have testified, have you not, that on Monday and Tuesday you observed that the

(Testimony of William Wiesbarth.)

"Celtic Chief" was gradually working in shore?

A. Monday afternoon and Monday night.

Q. Did you report that to Captain Miller?

A. We talked it all around in general. It was the report all around that they could see it coming off from the reef.

Q. Captain Miller knew that?

A. He must have known.

Q. Did he know it? A. I don't know it.

Q. Did you talk it over with him? A. No.

Q. Did he talk it over with you?

A. No. I heard it talked and talked myself.

Q. Do you know whether or not Captain Miller knew that the "Celtic Chief" was going further in shore?

A. I think he must have known just as well as I did.

Q. You knew it, did you report it? A. No.

Q. You kept on hauling slack all the time?

A. Monday and Monday night.

Q. And the Miller Salvage Co. kept lightering, notwithstanding the fact that the vessel was going further in aground. [1031—187]

Q. And on Tuesday morning also?

A. On Tuesday morning, four o'clock, they knocked off.

Q. You don't know anything about it after that?

A. No. Then I came in.

Recess.

Q. A few months ago, Captain, when you were on the stand, before, you testified, I believe, that the "Celtic Chief" was moving for quite a while off the

(Testimony of William Wiesbarth.)

reef before she actually came off, that you noticed.

A. Yes.

Q. You also testified to the same effect this morning, didn't you? How long did that, was that—about how long, would you say, did this go on, this moving of the vessel?

A. It might have been an half an hour or little longer.

Q. Might it have been an hour?

A. Not more than an hour.

Q. Was this movement of the vessel something that was readily noticeable?

A. I could see it by the lights, by the bearing I had.

Q. Was there anybody else there that you knew of that was taking bearings?

A. I passed the remark to somebody aboard.

Q. Did you have any talk with Captain Miller?

A. I told Captain Miller I think the vessel is coming off. I see she is moving.

Q. Did he also notice this?

A. Yes, the captain came along and he looked at it and he said all right.

Q. Then it went on for about half an hour before she came off? [1032—188]

A. For about half an hour I saw she came off.

Q. Do you know whether or not Captain Miller notified the other vessels there?

A. That I don't know anything about.

Q. Did you do so?

A. No, I didn't have nothing to do with that. I only tend to my business.

Q. So you do not know whether or not Captain

(Testimony of William Wiesbarth.)

Henry, either Captain Henry, the master of the "Celtic Chief," or any of the other vessels were notified?

A. No, I don't.

Mr. MAGOON.—I object to that on the ground it has been already answered.

The COURT.—Overruled.

Mr. OLSON.—Q. Was there anyone else on the vessel so far as you know, who observed?

A. That I don't know.

Q. Do you know a man named Mr. Lonche?

A. Yes, he was.

Q. Did you talk to him? A. I talked to him too.

Q. You knew he was there? A. He was there.

Q. Do you know whether or not he was taking any bearings?

A. Yes, he was looking at it all the time.

Q. Where was he when he was taking these bearings? A. Over amidships.

Q. Was he located any particular spot amidships?

A. Yes, he had the lines in range and to a backstay that he looked through.

Q. Do you know whether he was standing at the capstan while he was doing this? [1033—189]

A. He might have been there. He was all over the ship; all around the same as I was.

Q. So you knew that Lonche was there?

A. Yes, he were there.

Q. Who was the man from the German cruiser who was aboard the "Celtic Chief" at that time?

A. What time?

Q. During this time when the "Celtic Chief" was moving.

(Testimony of William Wiesbarth.)

A. There was no one aboard. He came aboard after that.

Q. When did he come aboard?

A. I couldn't tell you the time. I told you before, I got no idea about that.

Q. Fifteen or twenty minutes after you noticed she was moving?

A. Something like that. Might be little more.

Q. Do you know whether or not they were informed by Captain Miller or anyone else that the vessel was moving? A. I don't know.

Q. When did you hear this arrangement made about firing the signal? A. It was about dusk.

Q. Who was to fire those signals?

A. That lieutenant.

Q. Was he on the "Celtic Chief"?

A. He said he had a revolver.

Q. Was he aboard the "Celtic Chief"?

A. He was going to fire the different balls or lights, one, two, three, and when they have the three red ones they pull full speed ahead.

Q. Was he aboard the ship?

A. In the evening sometime.

Q. Then he left the vessel, did he?

A. Then he left the vessel. [1034—190]

Q. About what time?

A. That I don't know.

Q. Did he come back again after the vessel had begun to move?

A. No. She moved off then he came back.

Q. After she moved off?

A. She must have been off. Then he fired those

(Testimony of William Wiesbarth.)

three revolver shots in one succession—bang, bang, bang; then she was off.

Q. Was she off before those shots were fired or after?

A. She must be off then. She came off by our line.

Mr. MAGOON.—Q. Did you say she came off by our line?

A. Yes, that's what I think. Then I noticed the lieutenant came aboard.

Mr. OLSON.—Q. Where were you when he came aboard?

A. In front of the poop.

Q. Where were you when he fired those shots?

A. Standing on the after deck. I could see him firing those shots.

Q. You were on the poop deck?

A. No, on the main deck.

Q. How long had you been on the main deck?

A. I might have been there an hour; I might have been there two minutes.

Q. But you were on the main deck when he came aboard the ship? A. Yes.

Q. About amidships?

A. Well, somewhere around that tackle there.

Q. I thought you said, Captain Wiesbarth, that you were up on the poop about the time that she came off?

A. I went on the poop after I watched my tackle and the tackle slackened up and I went up on the poop. Then I [1035—191] seen that our wire was hanging slack in the water and got the tackle off.

Q. How does it happen that you could be both on

(Testimony of William Wiesbarth.)

the poop and down on the main deck at the time she came off?

A. I couldn't be in two places the same time.

Q. Just a minute. When you say that the lieutenant from the "Arcona" came aboard the vessel—

A. I couldn't be in two places at the same time.

Q. Which place were you when the lieutenant came aboard? A. I was going aft on top the poop.

Q. You were going aft?

A. It's just one minute.

Q. Were you still on the main deck?

A. I was just going up on the poop.

Q. Were you still on the main deck?

A. When he came on deck I was on the main deck.

Q. And at that time you think that the "Celtic Chief" was already off the reef?

A. I think that she were off then.

Mr. MAGOON.—He stopped you—

A. I say, while the lieutenant was coming up I only said I was going on the poop.

Mr. OLSON.—Q. Where were you when he fired the shots?

A. On the poop. The line was slack.

Q. But you do say that when the lieutenant came aboard you—before the lieutenant was aboard she was off? A. I think she was.

Q. Then you were not on the poop?

A. I was standing amidships and watching the tackle. Then the tackle straightened out. [1036—192]

Q. Then when the lieutenant came aboard you think the "Celtic Chief" was already afloat and you

(Testimony of William Wiesbarth.)

were standing amidships alongside the tackle?

A. I was going up the same time when the lieutenant went up.

Q. Will you state how it can be, how you could observe the lines of the towing vessels at the time she actually came afloat when you were not on the poop?

A. I could see the man-of-war's hawser on the side slack when I went up on the poop. Our wire was slack. Then I had to get the tackle off and let her go. The blocks would not go through the chock. She started full speed ahead and caught her up.

Q. Now, Captain, isn't this the fact: you couldn't and didn't observe the lines of the towing vessels at the time that the "Celtic Chief" actually came off but you did see them after she had actually come afloat when you went upon the poop? Isn't that the actual state of affairs?

A. I see the lines slack in the water, the same with our line.

Q. But at that moment she had already got afloat?

A. She was afloat; yes.

Q. And she had already begun floating before you went up on the poop?

A. It only took me a minute.

Q. You stated that when the lieutenant came aboard she was floating? Then she must have been afloat when you got actually on the poop?

A. She was afloat; yes.

Q. Now, I understand you to say, Captain, that when you [1037—193] came upon the poop then for the first time you actually saw the condition of the lines of the towing vessels?

(Testimony of William Wiesbarth.)

A. Yes, I seen all the lines.

Q. Then, when you came on the poop? A. Yes.

Q. Now, it is from that that you judge, is it, that the vessels were not towing when she came afloat?

A. Yes. They did not pull on her.

Q. That's why you think they were not pulling?

A. Yes.

Q. Why is it not also a fact, according to that reason, that Captain Miller's anchor was not pulling?

A. The vessel was going further in. You can think for yourself when the vessel is hove ahead that would lift the vessel out.

Q. Isn't that the reason why all the lines were slack?

A. Yes, but they wasn't pulling on her. If they would steam on it their lines would keep tight.

Q. Then I come back to the point of the method of the towing of the "Arcona." If the "Arcona" was not pulling by means of her propeller but was pulling by means of her exerting power on her anchor that would not show that the "Arcona" was not pulling?

A. But her line would have been taut, but it wasn't.

Q. As a seafaring man, in your opinion was it possible even that the Inter-Island boats could have been pulling at the time she came afloat from the condition of the lines?

A. No. That showed that they was not pulling on it and the lines were hanging slack.

Q. Were those fire, those pistol shots of blue lights and red lights, were those—those were the only signals [1038—194] you knew anything about?

(Testimony of William Wiesbarth.)

A. That was all.

Q. Then there were not—what did you mean by testifying on direct then, Captain, that there were some lanterns that were to be hung?

A. Oh, there was two red lights.

Q. Now, you wish to change your testimony.

A. You make me remember it now.

Q. So there were some lanterns?

A. Yes, there were two lights.

Q. When were they hung?

A. They was hung up when the vessel started to come off.

Q. Not before? A. Not before; no.

Q. They were put up the same time that those pistol shots were fired off?

A. About the same time.

Q. Who put them up?

A. One of the men of the ship.

Q. Did the pilot have anything to do with those lights?

A. Yes, he told them. He came out of the cabin and said, "Hoist this red light."

Q. How long did it take to get those lights up?

A. It might take five minutes.

Q. Then those lights were not up until several minutes after the "Celtic Chief" was off? A. No.

Q. She was afloat several minutes before they hoisted those lights. How many of those lights were there? A. Two red lights.

Q. Captain Wiesbarth, do you know the depth about the "Celtic Chief" as she lay aground there?

A. No, I didn't look at it. [1039—195]

(Testimony of William Wiesbarth.)

Q. What is the draught or what was the draught of the "James Makee" at that time?

A. She draws about twelve feet.

Q. She couldn't draw more than that?

A. That would be the limit.

Q. So if you had a little over twelve feet of water the "James Makee" would have no difficulty?

A. No, there was no difficulty at all. This vessel was drawing twenty or thirty feet of water.

Q. All around her? A. All around at the time.

Q. So Wednesday night would you say she was in twenty feet?

A. When half of the cargo had been taken out?

Q. How many would you say?

A. Fourteen or fifteen feet.

Q. Down right there would be plenty of depth so that all of the Miller boats could navigate in that water without any trouble?

A. There would be no difficulty at all.

Q. There is no rocky bottom?

A. The bottom is very nearly smooth.

Q. All around there? A. All around there.

Q. As a matter of fact, there was no danger from the Miller boats from the condition of the bottom around the "Celtic Chief"?

A. They didn't have no trouble. They found plenty water.

Q. Did you observe the boats into which the "Celtic Chief" was discharging; boats of the Inter-Island Company? A. I seen two boats going alongside.

Q. They were small boats, were they not?

A. Regular ship boats; small boats.

(Testimony of William Wiesbarth.)

Q. Rowboats? A. Rowboats.

Q. How much would they draw? [1040—196]

Mr. WARREN.—I object to that; not proper cross-examination.

The COURT.—I allow the question.

A. I told you two feet and a half to three feet depth.

Q. That was the draught of these boats?

A. That's all.

Mr. OLSON.—I think that's all.

Cross-examination of Capt. WIESBARTH on Behalf of Inter-Island Steam Navigation Co. and Matson Navigation Co.

Mr. WARREN.—Q. Captain, referring to the position of the "Celtic Chief" on the reef, when you first went out there, what was the angle of the vessel to the reef, to the shore?

A. Laying about right head-on.

Q. About head-on the shore?

A. Head-on the shore and the sea was running right straight from aft.

Q. And how in respect to the swell? Is that what you mean, straight behind?

A. Swell was striking straight aft.

Q. Would you say any more on one side than on the other?

A. Well, little more on the starboard side than on the port.

Q. How long did that condition continue?

A. Well, she stayed there, as near as I know, until she came off.

Q. Until she came off?

(Testimony of William Wiesbarth.)

A. She would slue on the port side. The steamers were hanging on and our wire was fast there. They kept her in the same position. [1041—197]

Q. Now, prior to your anchor line having been made fast what kept her in position?

A. Well, there was the Inter-Island steamers and the towboat, they was all hanging on to her and they was all there and the sea was coming on to her. She didn't move.

Mr. MAGOON.—Q. You say she didn't move?

A. She didn't move; she didn't slue around. If the vessel had slued around it would have been a hard job to get her off.

Q. Was there any danger of sluing around if these vessels had not had hold of her?

A. Yes, I think if they hadn't come on she would have got over over on to the reef.

Q. How long do you think it would have taken her to slue around that way?

A. That's the sea have got to do with that.

Q. Was there much of a swell?

A. Not very heavy.

Q. But there was quite a swell running in? Would you think it would have taken an hour or a day to have turned her around?

A. That's hard to tell.

Q. It might have been an hour?

A. It might have been a day; it might have been an hour, or two or three. Every time she moves in she breaks the coral off and she moves a little more, then finally she comes broadside on and the coral piles up [1042—198] around her.

(Testimony of William Wiesbarth.)

Q. That is, each time she would make a little motion in she would swing around?

A. Yes, swing around and make a bed for herself.

Q. Now, did you see her about the time she first went on on Monday morning? When did you see her first on Monday morning?

A. About eight o'clock.

Q. Now, from that time and up to Wednesday morning, how far do you think she moved in on the reef towards the shore from her original position.

A. I think possibly two hundred and fifty or three hundred feet?

Q. Did you observe her moving herself, any particular motion itself?

A. She was coming in by herself; we couldn't notice the motion.

Q. You couldn't notice it, with your eye?

A. Yes, with your eye by the buoys.

Q. Only by marks?

A. Yes, there was no kicking or anything.

Q. How much do you think she would move at a time? A. Only a few inches at a time.

Q. Gradual all the time.

A. Gradually in little by little; keep going.

Q. You say the bottom was fairly level around under her?

A. Pretty near level all around there, only a few little boulders around here and there.

Q. Do you think it was—what was the approximate grade of the bottom from the shore out? Did it deepen rapidly toward the sea or gradual?

A. Come gradually in little by little, inch by

(Testimony of William Wiesbarth.)

inch. [1043—199] Slopes like this. (Indicating.)

Q. How far seaward do you think she would have to move to float at ordinary tide?

A. With her cargo taken out it wouldn't take much.

Q. What is that?

A. If her cargo was out, it would not take much.

Q. You say your anchor was planted about a thousand feet astern? How deep was it there?

A. Astern? About six or seven fathom.

Q. That's about thirty-five or forty feet?

A. Forty-two feet.

Q. Now, the bottom over there up to the vessel was pretty generally one incline? A. Yes.

Q. No rocks or ledges?

A. Very little rocks around there. It is nearly a level bottom; one slope up.

Q. Now, what was the depth of the water at the place where you first dropped the anchor? I understand you came out with the anchor Tuesday night and dropped her?

A. Yes. It was dark. We was a little too far on one side of it; it wasn't exactly astern.

Q. About how far from the ship was that?

A. About a thousand feet or so.

Q. About the same distance as the other?

A. Only a little more on the port side of her.

Q. It was too far on the port side?

A. We couldn't get no straight pull on her. It would be pulling her off this way. (Indicating.)

Q. Now, you say before the anchor was put out she kept going further in right along? A. Yes.

(Testimony of William Wiesbarth.)

Q. And you were there Monday?

A. On Monday. [1044—200]

Q. And up to three o'clock Tuesday morning?

A. Tuesday morning.

Q. And after that you were not out there again until about dark on Tuesday night?

A. I didn't see no more if she was going out there. I didn't see on Tuesday night; I was ashore.

Q. Now, do you know if she move on further ashore on Tuesday?

A. I didn't say she did so on Tuesday, but she did so on Monday and Tuesday night.

Q. It was dark Tuesday night?

A. You can see by the lights.

Q. Did you go aboard the "Celtic Chief" Tuesday night?

A. No, didn't go on board; stayed on board the "Makee." It was dark.

Q. You didn't go aboard the "Celtic Chief"?

A. No, it was seven o'clock.

Q. From where did you take your observations?

A. I didn't take no bearings until Wednesday night.

Q. You say you took no observations on Tuesday night?

A. Not on Tuesday. I couldn't do it. I was on one vessel and then there was the other vessel and you couldn't take no bearing of the vessel.

Q. Then you don't know, as a matter of fact, that she moved in as much as a foot on Tuesday?

A. On Tuesday, no.

Q. All you know is that when you went on board

(Testimony of William Wiesbarth.)

Tuesday morning and took your bearings she was further in than what she was on Monday?

A. By the bearings I could see.

Q. You don't know when she moved in?

A. I only noticed it on Monday and Tuesday night that she [1045—201] moved in.

Q. Tuesday night you know what?

A. I noticed it on Monday and on Tuesday up to four o'clock in the morning.

Q. From that time until Wednesday morning you didn't take any more bearings? A. No.

Q. Now, by five o'clock on Monday you had one of your vessels loaded with fertilizer? A. Yes.

Q. Which one was that? A. The "Concord."

Q. You say you took off about a hundred tons?

A. About a hundred tons, I think.

Q. Then you were towed back by the— A. Yes.

Q. By what vessel? A. By a tug.

Q. What tug? A. One of them steam launches.

Q. Was that the one that was run by Lonche?

A. I couldn't tell.

Q. Was it a tug or launch? A. A steam launch.

Q. Whose launch was it?

A. I believe it was the Young launch.

Q. Captain Miller have a launch?

A. Yes, he got one called the "Elizabeth."

Q. Was it the "Elizabeth" that towed the "Makee"? A. That I couldn't tell.

Q. Where were you? A. On the "Concord."

Q. You were towed in and you don't know who towed you in? A. I don't know.

Q. You know Mr. Lonche? A. Yes.

(Testimony of William Wiesbarth.)

Q. Did you see him? A. Not that I remember.

Q. Where was the "Elizabeth" that day? [1046—202]

A. I don't know where it was; I couldn't tell.

Q. Was there more than one launch there on that day?

A. Yes, there was the "Huki Huki" from the Young Brothers.

Q. Did the "Huki" tow you in?

A. I don't know. It was one of them launches.

Q. Now, what time did the "Kaimilou" get out there? A. I think after dinner on Monday.

Q. After dinner? That's what time?

A. I couldn't tell you what time. I only noticed that she was alongside on the starboard and was taking out cargo.

Q. When the "Concord" left you were aboard and the "Kaimilou" was on the other side taking off cargo. Where was Captain Miller when the "Concord" left?

A. He was, I think, over on the "Kaimilou" or somewhere around there. I don't remember that now.

Q. What were your instructions as to what you were to do with that fertilizer?

A. Well, to make the vessel fast alongside the Hackfeld wharf.

Q. Only that?

A. And leave her there and get the "Makee" out and fill her.

Q. Take out more fertilizer?

A. Yes. We got out there seven o'clock that night,

(Testimony of William Wiesbarth.)

went alongside the "Celtic Chief" and started to fill her up.

Q. That was Monday night?

A. Monday night, yes. Monday evening and Monday night up to Tuesday morning until four o'clock.

Q. So the "Makee" came out Monday night and kept loading up to early Tuesday morning?

A. Yes. [1047—203]

Q. After you had taken the "Concord" in on what boat did you return? A. On the "Makee."

Q. Had you received orders from Captain Miller to bring out the "Makee"?

A. Yes, got orders from Captain Miller to bring out the "Makee" and fill her.

Q. It was about three or four o'clock in the morning that you finished with her and your orders were to come out and get more fertilizer? A. Yes.

Q. Was anything said about the anchor?

A. Nobody talked anything about the anchor to me.

Q. What was the first that you received any instructions from Captain Miller regarding the anchor?

A. I think one o'clock on Tuesday when we come back to the Hackfeld wharf, when we discharged that cargo that took us to two o'clock in the afternoon.

Q. You were in charge of the operation of getting the anchor on board? A. Yes, I was there.

Q. Now, when you came back with the "Makee" on Tuesday night you say it was about seven o'clock?

A. Alongside the "Celtic Chief" again.

Q. About seven o'clock when you got out there?

A. That's when we dropped the anchor and in the morning we found it was too far on the port side.

Recess.

(Testimony of William Wiesbarth.)

Q. On Tuesday night, Captain, when you dropped the anchor, how did it come you dropped it in the wrong place? A. It was dark.

Q. You couldn't see? A. No, we couldn't see.

Q. You couldn't see where the right place was?

A. No, the vessels was all behind and we thought the best thing was to drop it and in the morning we picked it up [1048—204] again.

Q. Was there any conversation between the captain of the ship and Captain Miller respecting the location of that anchor?

A. That I don't know. I didn't hear any.

Q. The only reason that you know that the anchor was moved then, was because it was not in the right place? You didn't move further out?

A. About the same length. We only could take it as far as our cable could reach.

Q. Why did you drop it at all?

A. Just hove on to that get a good clutch and heave up.

Q. That's not answering my question. Why did you drop it at all?

A. That I don't know; it was Captain Miller's order to drop her.

Q. Did Captain Miller pick out the spot where it was to be dropped?

A. No. I don't think he could see any more than I could.

Q. Oh, it was dark when he gave the order?

A. Yes.

Q. How long did it take to drop her in the morning?

(Testimony of William Wiesbarth.)

A. It didn't take us ten minutes. We got that big winch in there; we can pick up anything in the way of an anchor.

Q. Ten minutes from the time you pick it up?

A. We had to steam around those vessels. We had no steam they towed us. The "Mokoli" went up and towed us in and we dropped the thing then we rigged lines over to the "Celtic Chief." [1049—205]

Q. How long was it from the time you picked it up to the time when it was put down the second time? About how long?

A. Before we had the tackle aboard it was two or three hours.

Q. No, until you got it down the second time?

A. It might have been half an hour or might have been an hour.

Q. During Tuesday night where did the "Makee" lie? A. A little off the port quarter.

Q. Of the "Arcona"?

A. Of the "Celtic Chief."

Q. Of the "Celtic Chief." Now, where was the "Concord"? What boat towed her? The "Mokoli"? A. The "Mokoli" towed us out.

Q. Where was the "Mokoli" during Tuesday night?

A. She was lying in the neighborhood of us close to waiting for daylight. It was night-time. It was dark. We couldn't find our way amongst all them hawsers and them steamers so we could get in and drop it in the right position.

Q. Now, Captain, with respect to this block and tackle system that you'd fixed up on the deck of the

(Testimony of William Wiesbarth.)

"Celtic Chief," you said you had three sets of blocks and tackle. Now, the main block, one block was fastened to the end of your anchor line, was it?

A. Yes.

Q. And the other block on that tackle was made fast to the lashing between the foremast and the bitt alongside. The block on the tackle which was fastened to the anchor line that was fastened to the lashings from the foremast over to the bitts, wasn't it? A. Yes. [1050—206]

Q. Now, how far was it from the foremast where those lashings were, where that block was made fast, to the end of the Miller line?

A. I don't know how long the vessel is, but it must have been all of two hundred feet.

Q. Do you think it was more or less?

A. Rather more. It was from the foremast to the break of the poop.

Q. And you think that was about how far?

A. All of two hundred feet.

Q. And the block on the anchor line was just about the break of the poop? A. Yes.

Q. How was that block fastened to the anchor line to your hawser?

A. We had a wire cable two or three turns right through it and put a big timber on the line, wire, then made that fast. We had three wires above that stick, two timbers, a timber and a block and timber, and the wire.

Q. And your block right under that?

A. That was going into the shackle to the block.

Q. Was that taken off after you first fastened that

(Testimony of William Wiesbarth.)

block to the end of the line? Did you take that off another time after that?

A. Plait it and plait it until we had it taut.

Q. The first two sets of blocks were never moved?

A. The second one had to be moved many times.

Q. The blocks on the first tackle weren't moved until you changed the second tackle and you changed the third, but did you change the first?

A. No, we didn't change the first one. [1051—207]

Q. At any time? A. No.

Q. You never unshackled or loosened the block from the end of the wire? What was the size of ropes used in that first set of blocks?

A. I think it was a seven inch line.

Q. I don't mean the line running to the anchor line? A. No, but to the tackle line.

Q. You had seven inch line?

A. We had a big block about that.

Q. In circumference, you mean?

A. Seven inch around.

Q. And the second block? A. Six inch.

Q. And the third block? A. Five inch.

Q. You are very sure that they were not all the same size? A. No, different sizes.

Q. Now, at the time the "Celtic Chief" came off the reef, about how close had you brought those two first blocks together before she came off?

A. We had them two blocks forward right up against the, up against the lashings we had fast to the bitt.

Q. You had the two blocks up against the lashings?

(Testimony of William Wiesbarth.)

A. Very nearly.

Q. That is, the end of your cable, your wire, was drawn on the "Celtic Chief" here, hauled up to the blocks at the foremast? A. Yes.

Q. Your wire was drawn all that length on the "Celtic Chief" when she came off? Now, was that gradual or all at once? How fast did those blocks move together?

A. Very slow. We had a big gang on the capstan. They couldn't get anything. They were breaking almost the bars. [1052—208]

Q. She just came foot by foot?

A. Little by little; inch by inch.

Q. Those first two blocks came together very slowly? A. Very slowly.

Q. Now, how far apart were they at about the time you say you first noticed her moving off? A foot or little more; half a foot; before she came off, how far apart were they then?

A. That whole afternoon we didn't go an inch.

Q. During that afternoon how far apart were those blocks? A. It wasn't up to the mainmast then.

Q. Then? That's about what time?

A. In the afternoon.

Q. Up to six or seven o'clock?

A. Six or seven o'clock.

Q. Or later?

A. Later on when I seen her move, the tackle slackened up a little, then the whole business kept going out all the time.

Q. About what time do you think that block passed the mainmast? A. I couldn't tell you that.

(Testimony of William Wiesbarth.)

Q. Was it one hour or three hours before she came off? Would it be one hour or three hours?

A. It might have been eight or nine o'clock or ten o'clock; I don't know what time.

Q. Never mind the hour by the clock, but how much time elapsed between the time she came off and the time she passed the mainmast, that block passed the mainmast.

A. That I couldn't tell. I didn't take no notice of that.

Q. Now, you say you went and told Captain Miller about half an hour or possibly an hour before she came off that she was coming off? [1053—209]

A. Yes.

Q. At what time—where was that block?

A. It was near on the after capstan on the after-deck on the—above the capstan.

Q. That was about half an hour before she came off? A. Yes, more than that.

Q. More than that? An hour? How long after that that you noticed the first bumps that you spoke of?

A. After she got a bump or two then it was near about—I couldn't tell you the time.

Q. About half an hour, possibly?

A. Not more than that.

Q. Then when she came off did that block jump all the way from the mainmast to the foremast?

A. Oh, it slackened up gradually while it was hove away and couldn't go no more. That's when I went to Captain Miller and told him, "Captain, our tackle is slackened up." He said, "Heave away more." I

(Testimony of William Wiesbarth.)

told this Frank, the launch man, I told him, "You see that tackle, Frank? She's coming off now."

Q. By what means did you make the pull on your tackle during the last half hour? A. The capstan.

Q. By the capstan. What about the winch?

A. The winch, we didn't use it no more after the captain told us in the afternoon we couldn't use the winch no more, he wants to discharge the fertilizer.

Q. Did you use the winch at all after dark?

A. No.

Q. You didn't use it at all any more after dark?
[1054—210]

A. Not after dark, no.

Q. Now, what marks did you have on the "Celtic Chief" by which you observed her moving?

A. That she was coming off? The bearing of two channel buoys up against the backstay and I sat in a certain place here, and looking across I could see she was coming off; them lines were moving.

Q. Would not the same result be apparent if a boat were merely turning on her keel and not coming off?

A. No. She was coming right out; she didn't turn any.

Q. How do you know that?

A. I noticed she stayed there the same as she had been the whole time, very little that she swung around; no more than my hand.

Q. There with two points, one on the backstay, the other on the maindeck, you said, would not the least motion of that vessel make a width between the channel buoys?

A. That wouldn't make any. The little swinging

(Testimony of William Wiesbarth.)

that she did, it wouldn't hardly make any difference at all. I don't think any difference in all the lights.

Q. Now, you testified on direct examination that when you observed, possibly at ten o'clock, that you observed that she was moving and you went and told Captain Miller, told him the wire was slackening up and the vessel was coming off, that you could see that by the lights; that's correct?

A. I could see by the lights.

Q. Was that the time that Captain Miller said to you, "Now we'll show them a thing or two," something like that?

A. No, that was when I told the captain again. I told [1055—211] the captain again, "Now she's coming off. Now, Captain, you can see by the lights." The captain came and I showed him.

Q. Now, was that the time he said, "Now, we'll show them a thing or two"?

A. He said, "Come on, boys, heave away like hell and we'll show them a few little points." Then they worked like hell, the whole lot of them.

Q. How long after that did she come off?

A. It wasn't half an hour.

Q. It might have been more? A. I don't think.

Q. It might have been less?

A. At the time I cannot tell whether it was ten, eleven, or twelve o'clock. I haven't got no remembrance of the time, but it was dark and I can't remember the time.

Q. Now, when Capt. Miller came to take observations at the same place you had taken them, what did he do next?

(Testimony of William Wiesbarth.)

A. He says, "Come on, heave away, boys, we'll show them a few little things." And we heave the vessel off.

Q. Now, during that half hour what was Capt. Miller doing?

A. He was all around there; I don't know where he were; I couldn't see him.

Q. Did you hear anyone call out that she was moving? A. No, never heard it.

Q. How many people knew she was moving.

A. As much as I know, the whole, our crew knew because they were heaving on the capstan.

Q. You and the captain and—

A. The whole crew on the capstan.

Q. Who was immediately in charge of the work operating this block and tackle on board the "Celtic Chief"?

A. Capt. Miller was the head man he gave us orders and I obeyed him.

Q. You were next in charge? A. Yes.

Q. Who gave the orders to the men under you?

A. Capt. Miller sing out to all us.

Q. I mean generally during those operations.
[1056—212]

A. I told the men what they wanted.

Mr. WARREN.—Now, you heard the arrangements as to signals between the officer of the "Arcona" and the captain of the ship, did you?

A. Yes, I heard them.

Q. As to the firing of these colored lights from the vessel. A. Yes.

Q. And you understood what those signals were?

(Testimony of William Wiesbarth.)

A. Yes, it was one, two, three. One star, two stars, and three stars.

Q. What did one star mean?

A. That I don't know, what it means. He fired the three red stars the "Arcona" was going full speed ahead.

Q. That was to be a signal that she was to go full speed?

A. That was the signal she was off, then the "Arcona" to go ahead full speed.

Q. What was one shot for? You don't know?

A. That I don't know. He fired the three off, not one.

Q. That's what he did when he came on board, but you heard the arrangement being made as to signals?

A. Yes, I heard them. I don't know what he said about the first one or the second one. He said, "When I fire three balls."

Q. Was that the signal for the vessel to pull or was that the signal the "Celtic Chief" was off?

A. That was the signal the "Celtic Chief" was off and then for the boat to pull full speed.

Q. Now, you also heard the signals with the lanterns? A. Yes.

Q. You say one light was to go up and that meant nothing. That light was up all the time.

A. One light was set. He says, "When you hoist the two red lights—"

Q. Two red lights or one more light?

A. Two red lights was to be she was coming off.
[1057—213] Pull full speed.

Q. What time did they hoist the first light?

(Testimony of William Wiesbarth.)

A. That was evening.

Q. When the other light went up that was the signal for all boats to pull, was it not, Captain?

A. Yes.

Q. And you knew that was to be the signal?

A. Yes, I knew that.

Q. And what time was that to go up, do you know?

A. I couldn't tell you the time.

Q. That was simply to be a general signal for all boats to pull? A. For all to pull full speed.

Q. Now, that arrangement was made toward evening, was it? A. In the afternoon, yes.

Q. At any rate, several hours before she came off?

A. Oh, yes.

Q. Now, between whom were those arrangements made as to these signals about the lantern?

A. The captain and the pilot there.

Q. The captain of the ship? A. The pilot.

Q. Pilot Macaulay?

A. The lieutenant from the German man-of-war.

Q. Now, from the Inter-Island boats?

A. Capt. Haglund was aboard. He might have possibly heard that.

Q. Where was Capt. Miller?

A. Capt. Miller was up around the poop.

Q. Do you know whether or not, Capt. Miller knew of this arrangement about the lanterns?

A. That I don't know.

Q. You didn't tell him anything about it?

A. I didn't tell him.

Q. Were you taking part in the conversation.

A. No, I did not. I only heard them talking that

(Testimony of William Wiesbarth.)

it was [1058—214] to be two red lights then they should pull all full speed ahead.

Friday, August 11, 1911.

Q. Captain, referring to the coming out of the "Mokolii" and the "Makee" on Tuesday night when the anchor was aboard the "Makee," will you describe the place where the anchor was dropped? How far to the starboard or the port side of the "Celtic Chief" was that anchor dropped?

A. Tuesday night when we came out with the anchor?

Q. Yes, on Tuesday night when you first dropped the anchor?

A. About four or five hundred feet off and then astern.

Q. On what side?

A. On the port side. You see, there was all them vessels were behind and was towing on the vessel.

Q. When you came out from the harbor you circled around all the vessels that were pulling, to the extreme port side of all those vessels? A. Yes.

Q. About what angle was that?

A. About four hundred feet off.

Q. And nine hundred or a thousand feet right off her quarter? About forty-five degrees angle?

A. Nearly.

Q. The first thing you did was to drop the anchor, then what did you do with the "Makee"?

A. She stayed outside too.

Q. Where did the "Mokolii" go after dropping the "Makee" that night?

A. A little away from her.

(Testimony of William Wiesbarth.)

Q. Did the "Mokolii" come up to the "Celtic Chief" that night? A. I don't remember that.

Q. Where were you, on board the "Makee"?

A. I was on the "Makee."

Q. And you don't know whether or not the "Mokolii" did come up to the "Celtic Chief"?

A. I only know she stayed there that night and was ahead in the morning to heave us on, to haul up to the vessel.

Q. Would you say that she did not come to the "Celtic Chief" [1059—215] that night?

A. I couldn't say that.

Q. She may have gone alongside the "Celtic Chief" after she left you?

A. That I haven't seen. I couldn't say that.

Q. Now, I understood you to testify on direct examination that when the second red light was hoisted then the other boats began to pull? A. Yes.

Q. The Inter-Island boats?

A. And the "Arcona."

Q. How about the "Arcona"? A. Her too.

Q. You think they all began pulling when the second red light went up? A. Yes.

Q. And you think that none of them began pulling except as they were obliged in order to get out of the way of the "Celtic Chief" coming off?

A. Yes, when they hoisted that light up and the "Arcona" started to pull ahead, I think all the steamers started to go ahead, pick their anchors up.

Q. Do I understand you to say that the steamers went ahead to get out of the way rather than to pull.

A. I think it was the signal to all pull ahead, then

(Testimony of William Wiesbarth.)

they seen the vessel was coming out and they had to get away.

Q. Do you know whether or not any of them really were pulling when the "Celtic Chief" came off?

A. No, they did not pull except when she were off; they started all to pull ahead.

Q. Then, when the ship came off there was no occasion for them to pull?

A. They had to get out of the way.

Q. In your judgment, all they had to do was get out of the way?

A. They started to get away. The "Arcona" was made fast to the rail. She was towing the vessel further out.

Q. Do you know that they pulled at all when the second red light went up?

A. I went aft on the poop and got my tackle lines so they could not take that away from us. [1060—216]

Q. You saw all those steamers scrambling to get out of the way?

A. To get away; that's all they were trying to do.

Q. And you think these steamers were all keeping a good lookout for that second light? A. Yes.

Mr. MAGOON.—I object to it. What he thinks is absolutely immaterial.

Mr. WARREN.—I withdraw that question. On your direct examination you said this, "They all started. They was all keeping good lookout for them two red lights. As soon as the signal went up they all started." That is correct? A. Yes, sir.

Q. You think the boat came off about midnight, as

(Testimony of William Wiesbarth.)

nearly as you can recollect?

A. About midnight or somewhere around that time.

Q. Then you also testified on direct examination that possibly eleven o'clock, after half-past ten or eleven, you had no watch, the vessel made a jump. She gave a good jump two times that way then they hurried in the cabin. That is correct as near as you can remember. About half-past ten?

A. A little around that time.

Q. When she jumped?

A. When she gave a shake.

Q. What kind of a shake?

A. With the swell raising.

Q. And you could feel that she was coming loose. Was it a slow motion or was it a heavy bump so that vibrated on board? A. You could just notice it.

Q. Then when she bumped then Capt. Macaulay and Capt. Henry came upstairs, running out?

A. That I don't know.

Q. I understood you to testify on direct examination she gave a good jump two times that way, then they heard this in the *in the* cabin. There was the pilot and the captain in the cabin. When they heard this they said altogether, "They're coming off," then they came on deck?

A. That's correct. [1061—217]

Q. Then Macaulay when he came on deck, they had the second red light?

A. Yes, heaved the second red light.

Q. And was it hoisted then?

A. Yes. Then a man went up in the rigging and

(Testimony of William Wiesbarth.)

hoist the red light.

Q. You saw him do that?

A. Yes, I seen him do it.

Q. At that time? A. Yes.

Q. Now, on direct examination you said that every time a heavy swell came in it raises the vessel, raised the vessel off and takes the steamer, referring to the steamers, the Inter-Island steamers, when the swell comes along it raises them and takes them up a bit, then the swell strikes the ship and comes in with her so that the pulling steamers can't keep the hawser tight? A. Yes; that's so.

Q. That is your reason for believing that a steamer pulling in that way is not as effective as an anchor?

A. No, it is not.

Q. An anchor is better than a vessel pulling?

A. Every swell would lift the vessel and she come up slowly and then slackens the hawser and strikes the vessel and pushes her in.

Q. Pushes the anchor in?

A. In having an anchor out and keep that tight they cannot do it.

Q. Would having an anchor out of the pulling steamer, an anchor out ahead, prevent that?

A. I don't know how much chain they had out on the anchor. I think they only dropped their anchor to keep the vessel from swing around.

Q. If the pulling steamer puts out an anchor or anchors ahead of her that would tend to prevent that?

A. If they got the anchor and chain far enough out.

Q. Do you know whether or not these pulling

(Testimony of William Wiesbarth.)

steamers did or did not have anchors?

A. Yes, sir, they had anchors down. I know that.

Q. As far as you know, each one of those steamers had an anchor out? A. Yes. [1062—218]

Q. Do you know that the "Mikahala" had one or two anchors? A. That I don't know.

Q. Do you know how far ahead of the steamers these anchors were placed?

A. I think they were laid to keep the vessel in position. There was so many of them they had to keep a certain distance apart.

Q. You don't know really how far ahead they had those anchors? A. No.

Q. You don't know really whether or not those anchors were really holding those steamers in place or not, do you? A. No.

Q. Now, when the "Celtic Chief" came off the reef and approached the "Arcona," will you describe just what course she took with respect to the "Arcona," whether it was straight to the "Arcona" or did she swing to one side?

A. She turned right straight out. Them other vessels was lying a little further off the quarter.

Q. Now, do you know what lines of the Inter-Island steamers were cut first?

A. I think the "Mikahala" line.

Q. The "Mikahala" line was cut first of all.

A. I think.

Q. Do you know? A. I seen them cut it.

Q. Before any other lines were cut?

A. They all stood off and let go the lines. Some were let go and some were cut.

(Testimony of William Wiesbarth.)

Q. You don't know whether the "Mikahala" line was cut first or others were cut first?

A. That I don't know.

Q. You don't know whether that was cut first or last, do you? A. No, that I don't know.

Q. Did you observe the position of the "Mikahala" at the time her line was cut?

A. She was a little off the starboard quarter.

Q. Headed what way? A. Heading out to sea.

Q. Out to sea? A. Yes.

Q. Straight out to sea?

A. Little off the quarter. [1063—219] Here lies the vessel and she was lying in about this position with her line out from the starboard after chock. That's when she had her line fast.

Q. Now, when the "Celtic Chief" came off and after she had got afloat, what was her angle to the shore as compared to her previous position of straight on? Did she remain straight on the same line as she did when she was ashore?

A. The "Arcona" was pulling the vessel followed her off.

Q. Did the "Arcona" begin pulling before the "Mikahala's" line got tight?

A. She right straight off the beach. She didn't swing around.

Q. She didn't turn at all one way or the other the whole time? A. No.

Q. How close do you think she came to the "Arcona" before the "Arcona" steamed up?

A. She moved off about four or five hundred feet.

Q. Off the reef?

(Testimony of William Wiesbarth.)

A. Off the reef. The "Arcona" was about nine hundred feet or a thousand feet away, something like that. She had her lines fast then when she got off, about four or five hundred feet off the reef, and she started to take her out, took her clear of the reef then the "Likelike" went alongside. She took her in tow and anchored her.

Q. This motion of the "Celtic Chief" on leaving the reef was continuous and steady from the time she left until she got out four or five hundred feet?

A. Yes, she went right straight out.

Q. Started right out? A. Yes.

Q. Now, did she slow down at all before the "Celtic Chief" pulled her out?

A. I don't understand that.

Q. Did the "Celtic Chief" continue her seaward motion without any stop?

A. Yes, she was going slowly out.

Q. Going slowly out? A. Yes.

Q. And did she come to anything like a standstill before the "Arcona" tightened her lines?

A. That I couldn't say. [1064—220] If they let the vessel go, she would be going clear off to sea by herself. The wind would keep the vessel going out.

Q. Was there very much wind?

A. Not very much.

Q. Any sails up? A. The sails were all furled.

Q. The effect of the breeze against her rigging and masts was such that she would have gone out to sea altogether? A. Yes.

Q. Rapidly? A. Very slowly.

Q. The effect of the breeze wasn't enough to carry

(Testimony of William Wiesbarth.)

her out four or five hundred feet?

A. That was through our heaving that we got her off.

Q. Did she come off that reef anything like a dragging—

A. First slowly, little by little, little by little, then she went off pretty rapidly then and clear off and that is when our lines slackened up.

Q. Can you give us any idea about how much in feet she travelled a minute? What rate of speed did she travel?

A. I didn't watch that. I couldn't tell you that. I couldn't tell you how fast she was going off by a minute.

Q. Possibly a minute?

A. I couldn't tell you that. I didn't watch them how many minutes or how long it took. It didn't take, any way, she went right off the reef and after a little while got headway and she come out a little faster.

Q. Where was your anchor with respect to a line drawn between the "Arcona" and the "Celtic Chief"? In the same line or one side or the other?

A. It was a little on the starboard side of the "Arcona." The "Arcona" headed out this way, the right side is the starboard side.

Q. About how many degrees to the starboard?

A. It wasn't very far away from it.

Q. About how many degrees,—as much as a quarter?

A. It might have been one point. [1065—221]

Q. One point to the starboard?

(Testimony of William Wiesbarth.)

A. One point off the "Arcona."

Q. And I think you said the "Arcona" was directly astern of the "Celtic Chief"?

A. Yes. It can't be so exactly, they had to keep clear, she couldn't lay over our anchor.

Q. Then the "Arcona" was really to port of the "Celtic Chief"? A. No.

Q. She was off the port quarter, a little bit, rather than straight astern?

A. No, a little more on the starboard, starboard quarter.

Q. Then your anchor you say was about directly astern or a point to starboard?

A. Off the "Arcona." The "Arcona" was astern and our anchor was astern. They had to keep clear of our anchor.

Q. Then your anchor line was really between the "Arcona" and what other vessel?

A. There was so many I don't know the one it was. I remember there was the "Mauna Kea."

Q. Well, at the time she came off?

A. It might have been the "Helene" but I dropped that by the "Likelike." The "Helene" was on the starboard side of the "Arcona."

Q. Then your anchor was between the "Arcona" and whatever vessel of the Inter-Island that was on the port of her? A. Starboard.

Q. Starboard of her?

Mr. MAGOON.—I want to object to this line of examination, your Honor, and want to have the last answer stricken out, for the reason that it doesn't appear to be any examination which assists the Court

(Testimony of William Wiesbarth.)

or can assist the Court in arriving at a conclusion here; therefore, I again object and ask to have the last answer stricken out on the ground it is cumulative and immaterial.

The COURT.—Objection is overruled.

Q. I'd like to have you take a piece of paper, Captain, and [1066—222] sketch the relative positions of the "Celtic Chief" and the different vessels connected with her and the Miller anchor.

Mr. MAGOON.—I object to it. What's going to be gained by it?

The COURT.—Objection overruled.

Mr. MAGOON.—I'd like to object to it on one more ground. I object to it on the ground it is not cross-examination. This witness has been called to testify as to the operations of the Miller Salvage Co. and he has testified as to them and he's testified as to the lines, as to the time, whether or not these boats were pulling, at the time. Now, I submit, that to go into it further is—

The COURT.—Objection overruled.

Q. Will you kindly draw on this paper, Captain, as nearly as you can, the position of the "Celtic Chief," and putting it as nearly as you can the approximate distance as well as approximately how near each vessel was to the other? Will you mark the anchor right to the side where your Miller anchor is "A." Now, the "Arcona," mark the "Arcona" "B." The "Mikahala," mark that "C." Now, the "Helene." As they were that night.

Mr. MAGOON.—They changed the steamers sometimes, did you say?

(Testimony of William Wiesbarth.)

A. Yes, they took the "Maui" out, the "Likelike" came out and another steamer came out. I couldn't remember all the steamers out there.

Q. What steamer, as nearly as you can remember, was next to your anchor on the side of the "Arcona"?

A. I think that's the "Likelike."

Q. Mark that "D." Now, was there another vessel of the Inter-Island?

A. I don't know if there are any more there.

Q. There may have been?

A. May have been more steamers but I don't remember.

Q. You are only sure of three?

A. Here was the "Likelike." Here was the "Mikahala," and might be [1067—223] the "Helene" were out there.

Q. Was there more than one boat on the Ewa side of your anchor?

A. There might have been the "Helene."

Q. Was there another boat?

A. Possible that the "Helene" be there. If the "Helene" was not on this side in line with the "Mikahala."

Q. Mark as "D," "E," the place of the "Helene" if she were there.

A. That's all the vessels I remember.

Q. Will you write the word "Celtic Chief" by that vessel, or C. C. Thank you, Captain, you may resume the stand. Now, on this sketch, Captain, you have drawn these boats as nearly as you can recall their relative positions between each other, each has to the others? A. Yes, in this line they laid by.

(Testimony of William Wiesbarth.)

Q. The distances are approximately correct, that is, the proportionate distance?

A. Yes, about the same way apart, one from another.

Mr. WARREN.—I desire to offer this sketch in evidence as Libellant's Exhibit "A" of the Inter-Island Steam Navigation Co.

The COURT.—It may be received.

Q. Now, Captain, if the "Arcona" had not taken up her anchor and steamed out, would there have been any danger of collision between the "Celtic Chief" and the "Arcona"?

A. Yes, I think if they hadn't steamed away they would have bumped into her. I think so. She was pointing right for the "Arcona" when she come off.

Q. Would the "Celtic Chief" have run stern on or sideways toward the "Arcona"? A. Stern on.

Q. Between the time that the second red light went up and the time that you got up on the poop deck and looked over and saw the lines slack, had you seen those lines at any time between those two intervals?

A. I was watching them. They was hanging in a bight in [1068—224] the water. I couldn't see where the lines were.

Q. Exactly. What did you do when the second light went up which, as I understood you to say, was when the vessel was off? A. She was off.

Q. Then you went aft and got up on the poop?

A. We took the tackle loose and dropped the hawser over the sides.

Q. Between the time that the second light went up and the time you got on the poop, you didn't see the

(Testimony of William Wiesbarth.)

lines of the steamers?

A. Yes, I did; they were hanging up slack in the water in a bight.

Q. I thought you said when she came off you left the main deck and ran on the poop?

A. Yes, some was standing by taking the blocks off the wires. I got some men from the poop sending the wire over the side to clear it from the vessel.

Q. You were occupied in doing that?

A. Yes.

Q. As soon as the second red light went up or perhaps before that, you were occupied in loosening the blocks? A. I didn't hear that.

Q. Between the time, as soon as the light went up, the second light then you were engaged in disconnecting the anchor tackle?

A. Yes, taking that blocks but I was on the poop with the men to send out the wire, send it over the sides, let it go.

Q. Where were you when the light went up? On the poop or on the deck?

A. I had stayed on the deck to see that the tackles got off just when they hoisted the light up. I were up in the poop getting the men to send the wire over the side.

Q. When the light went up you went straight up on the poop? A. Yes, I went straight.

Q. But between those times you didn't see those lines until [1069—225] you got on the poop?

A. When I came on the poop I looked on our wire.

Q. My question is, before you got on the poop you didn't see the lines?

(Testimony of William Wiesbarth.)

A. Yes, I looked over the side, the wire from the "Arcona" that was made fast on the mainmast.

Q. When did you do that?

A. When our line slackened up about the same time; when I looked over the side to look to see how the wire were.

Q. How was the "Arcona" line—slack?

A. That was slack.

Q. Did you see the other lines?

A. That's one on aft. It was hanging down in the water. It was slack. There was no strain on it.

Q. But you didn't see these until you got up on the poop? A. Yes, then I seen them.

Q. You didn't see them until you got there?

A. Yes.

Q. There were two lines of the "Arcona" that day?

A. One I didn't see. One was on the port side of the vessel fast. I didn't see that one. I seen that one on the starboard side on the mainmast.

Q. What wire of the "Arcona" got afoul of your anchor buoy?

A. One of them. When she steamed ahead with the vessel the wire got foul over our buoy and took the buoy off. It was a gasoline drum buoy and iron strap in it. There was the wire shackled into that. It took the wire out and the buoy floated around.

Q. Did you see the line get foul of the buoy?

A. I didn't see that.

Q. How do you know that the "Arcona" line had got foul of it?

A. She was the only vessel that was pulling there.

(Testimony of William Wiesbarth.)

Q. Were—the others had let go pulling over the buoy? [1070—226]

A. Over the buoy, yes, sir.

Q. Now, at the time the "Arcona" got the first line on and steamed up a little and broke it, where was the "Intrepid"?

A. The "Intrepid" was away out of the way anchored or laying to.

Q. The "Intrepid" had moved out before the "Arcona" got any line on at all?

A. Yes, they cut this hawser. The mate from the vessel asked them to let go. The captain would not let go. He said, "I am the first man here and I won't let go," and they cut his line. That made him heave in his line and move out of the way.

Q. On your direct testimony you said that along toward Wednesday evening, afternoon, it might have been, two or three o'clock, the captain came and told the Miller men, "You can't take any more turns on this winch; we have to discharge that freight." Now, what captain did that?

A. That was the captain of the vessel.

Q. Captain who?

A. Captain of the vessel, "Celtic Chief," yes.

Q. On cross-examination by Mr. Olson, you said that the "Mauna Kea" line was parted?

A. Yes, twice.

Q. Parted twice. And you also said that was broken by her jerking.

A. Yes, slackened a little on it then started off. That broke the line. Tried to jump her off the reef. She wouldn't budge. Made the line fast again and

(Testimony of William Wiesbarth.)

she didn't come. Then they broke the line.

Q. How large a line was the "Mauna Kea" line?

A. About ten or twelve inch. It was a good, big hawser, brand new line.

Q. Did you examine the hawser at all?

A. I could see it was a new line about this size. That's either ten or twelve inch.

Q. It was ten or twelve inches in diameter or around? [1071—227]

A. Circumference, around.

Q. Now, in answer to Mr. Olsen, you went into the matter of relative risks, and I want to ask you whether any of these boats of the Miller Salvage Co. which were engaged in lightering, taking cargo out of the "Celtic Chief" on Monday and Monday night, ever have, to your knowledge, taken cargo, to your knowledge, out of any other vessel at any other Island port?

Mr. OLSON.—I object to it on the ground, first, that it isn't cross-examination. That's my first objection. The second is that it is entirely immaterial whether he has seen them take cargo out of other vessels or not.

The COURT.—I allow the evidence.

Q. Can you answer the question?

A. I wasn't master of it, but I know a vessel running up to Hilo, carrying—

Q. That wasn't my question whether she could carry, but whether or not any of those boats, boats of Captain Miller, ever lightered or loaded at any other place in the Islands, to your knowledge, in a manner similar to that vessel which took this cargo from the

(Testimony of William Wiesbarth.)

"Celtic Chief"? Come alongside, transfer from one vessel to the other out at sea?

A. I wasn't master—

Mr. MAGOON.—I object to that on the ground it is entirely immaterial.

I'll withdraw it.

The COURT.—The objection is overruled. It goes to the credibility of the witness again. If not for anything else, I allow it on that ground.

Q. Have you?

A. No, that's never done out to sea, vessel coming alongside the other.

Q. What's that?

A. They never go alongside the other at sea.

Q. As far as you know, the only lightering that's done out at sea from a steamer is in little steamer boats? The cargo is [1072—228] loaded from the steamers in little boats and taken ashore that way? A. Yes.

Q. Now, in speaking of the smaller boats, such as the steamer boats taking cargo from a vessel at anchor at an Island port, I think you said they never put a line to a small boat, but you do say that they had a line from the steamer which the boatmen hung on to. Where is that rope made fast?

A. Going along the ship's side, the rope is made fast and that keeps it up.

Q. Where are the ends of that rope made fast?

A. On deck.

Q. Are they made fast to the steamer boat?

A. The boat's crew held on in order to keep the boat alongside in position.

(Testimony of William Wiesbarth.)

Q. Just so, to get the boat in the right place for them in that way. Then the small boat is never made fast to the larger boat?

A. No, that would make too much, they couldn't keep the boat in a position. The vessel is rolling and going, pitching, and going a little back and forward and rolling again.

Q. What would be the effect if the boat were made fast?

A. It would break the boat all up. They couldn't do it.

Q. So that, as far as conditions were concerned in the matter of lightering in this case of the "Celtic Chief" where the Miller boats were lashed to the "Celtic Chief" and this case of lightering at other ports in small boats, what is the comparative risk there?

A. You can't hold the bigger vessel with two or three men by the ropes. If she would get so much over the side you couldn't get the freight at all. A vessel bumping against her it damages the vessel more or less. It plays the vessel out in no time.

Q. In lightering in a boat, have you ever in your experience known of any other case where the two vessels were lashed together?

A. Well, in Hilo, perfectly smooth water. There it is usual to take a load of cargo right [1073—229] out of the steamer. There it is perfectly smooth.

Q. That condition would hold good for Hilo harbor? A. For Hilo harbor.

Q. Do you know of any other place in the Islands?

A. No.

(Testimony of William Wiesbarth.)

Q. You are familiar with a good many of the ports and landings around throughout the Islands?

A. I know about all them ports.

Q. Now, would the fact that the "Celtic Chief" was ashore aground make any difference in the relative risk of lightering by lashing the boats together?

A. Yes.

Mr. OLSON.—I object to this question on the ground it is improper cross-examination.

The COURT.—The objection is sustained.

Q. Referring now, Captain, to the different signals that were given, there was the second red lantern and then the lights from the pistol. Now, which of those two signals were given first?

A. Well, they came at about in the same time, very nearly in the same time.

Q. That is, the red light went up and how did the pistol go, before or after?

A. I think they hoisted the red light up, then the lieutenant came up on the poop and fired this revolver.

Q. About how many minutes apart?

A. About one or two minutes.

Q. In answer to a question of Mr. Olson, you stated your opinion as a seafaring man that from the condition of the Inter-Island lines, you would say that they had not been pulling. Now, I want you to state on what conditions you base that opinion?

A. I couldn't see the water churning up behind from the propeller.

Q. From the Inter-Island boats?

A. No, there from the "Arcona." [1074—230]

(Testimony of William Wiesbarth.)

Q. You had the electric light burning from the "Arcona" and you could see as plain as daylight the white water if the vessel is moving.

Q. You didn't see any churning of the water behind any of the steamers at all for a short time?

A. Up till they hoisted the red light and fired the revolver then they went off with the vessel and the "Arcona" took the vessel out clear.

Q. Now, when the second red light went up they did churn the water and sailed off?

A. Then they started ahead.

Q. How do you know that?

A. I could see the water move.

Q. From where? A. From the poop.

Q. How do you know they weren't churning water before you got on the poop?

A. They didn't do it. I was watching.

Q. How do you know they didn't do it?

A. They didn't do it.

Q. How do you know?

A. I was looking at it.

Q. The whole evening?

A. Most of the time I was on the poop they didn't move.

Q. The whole evening? A. The whole evening.

Q. Didn't turn the propellers?

A. After dark?

Q. After dark until they had to get a move on to get out of the way? A. Yes.

Q. So, in your judgment, they didn't exert any pull on that "Celtic Chief" the whole evening?

A. (Witness shakes head to indicate "No.")

(Testimony of William Wiesbarth.)

Mr. WARREN.—That's all.

Recross.

Mr. OLSON.—Q. Captain, on this second sketch that you've made here, the Inter-Island Steam Navigation Co.'s Exhibit "A," you have designated the "Arcona" by the letter "B"; is that [1075—231] correct? A. "A," that's our buoy.

Q. Yes, but "B"? A. That's the "Arcona."

Q. As a matter of fact, isn't it true, Captain, that the "Arcona" had two lines attached to the "Celtic Chief"? A. Yes.

Q. One was attached on the starboard side and the other on the port side? And is it not also true that the "Arcona" was practically dead astern as near as she could be on account you were on the "Celtic Chief" when the "Celtic Chief" came off and when the "Arcona" pulled and began to tow the "Celtic Chief" out to deep water? A. Yes.

Q. When the "Celtic Chief" was *those* towed, before taken away, did she maintain a direct course ahead? A. That I couldn't tell you.

Q. Weren't you on her?

A. I didn't watch when she was following the vessel.

Q. Did she follow the "Arcona" direct?

A. As near as I can judge, she did. I couldn't tell that exactly, I don't know.

Q. Which indicates, does it not, that the "Arcona" must have been lying dead astern when she was attached to the "Celtic Chief"?

Mr. MAGOON.—I object to that as purely argumentative.

(Testimony of William Wiesbarth.)

The COURT.—Objection overruled.

Q. Answer the question.

A. I didn't watch the two vessels what they were doing.

Q. I'll ask you this: If a vessel placed directly off a straight line with the vessel it is towing—were two lines attached at the same place?

A. No, sir, one line was fast aft, on the after bitt, and the other line was amidships. That might possibly swing the vessel around a little; I couldn't say.

Q. Standing on the poop of the "Celtic Chief" and looking out, for all practical purposes, the "Arcona" was practically astern [1076—232] dead astern when they started to pull her. I mean at the time the "Celtic Chief" was aground? A. Yes.

Q. This one line that you have connected the sketch of the "Arcona" with the sketch of the "Celtic Chief" is merely to connect up, it isn't to indicate that there was one line connecting the two?

A. No, there were two.

Q. Captain, will you kindly draw on this sketch, the second line so that it will indicate truthfully.

Now, then, you have now drawn the first line; now give the second line between the "Arcona" and the "Celtic Chief." You have now drawn the two lines from the "Arcona" to the "Celtic Chief." As you have drawn the "Arcona" and several of the others there it would appear as though they were directed toward the "Celtic Chief." They were all pulling away from the "Celtic Chief"?

A. They were stern to stern.

Q. Now, directing your attention for a moment to

(Testimony of William Wiesbarth.)

an inquiry that has been made more or less concerning the risk to the Miller Salvage boats, isn't it true, Captain, that there was no special risk to the Miller boats? No special risk?

A. No, but it don't do the vessels no good laying alongside and getting bumped.

Q. There was no special risk?

A. There was no breaking sea on, but it is no good to have the vessel alongside because they might have damaged them, you know.

Q. A vessel taking cargo sometimes may be bumped up against a wharf?

A. That ain't half as bad.

Q. They do it sometimes, large vessels, so that they might scratch the paint? A. They do that.

Q. They would be damaged in the same way?

A. That wouldn't hurt them so much no, as if the swell comes in and the vessel raises with it and she comes back as hard as you can make it. [1077—233]

Q. So if there had come a breaking swell there might have been risk of damage?

A. If there had been heavier weather they would not have been able to lay alongside of her.

Mr. OLSON.—I think that's all. Oh, there was one point that I wanted to ask about and that's this: You testified in response to Mr. Warren's examination at about four o'clock of the morning of Tuesday you did not take any further bearings?

A. Not since then.

Q. Four o'clock in the morning or night of Tuesday? A. Four o'clock in the morning.

Q. And you did not take any more bearings until

(Testimony of William Wiesbarth.)

Wednesday morning?

A. Until Wednesday when we had our anchor fast and I went aboard of the "Celtic Chief."

Q. In the daytime how did you take your bearings?

A. Take it on the same buoys, I can see them buoys plain.

Q. They were the same buoys that had the lights on that you used as range lights at night?

A. Yes.

Q. Now, Captain, did you observe the position of the "Celtic Chief" about four o'clock on Tuesday?

A. That was the time we left. We left the vessel might be two o'clock.

Q. Somewhere in that neighborhood?

A. About two or three, somewhere around there.

Q. And you again observed the position of the "Celtic Chief" on Wednesday morning?

A. Oh, I wasn't aboard until eleven o'clock.

Q. Then you again observed the position of the "Celtic Chief"?

A. Not until we set the big anchor.

Q. But you did observe sometime on Wednesday the position of the "Celtic Chief"?

A. Yes, after the wire was hauled taut.

Q. State whether or not you did take observations on Wednesday. A. Yes. [1078—234]

Q. Had the "Celtic Chief" changed her position farther forward? Had she gone farther ashore between Tuesday morning when you took your last observation and Wednesday? A. Yes.

Q. Considerably or only a little?

(Testimony of William Wiesbarth.)

A. I can't tell how much it is.

Q. A considerable amount?

A. Only a little bit.

Q. How far did she go on, would you say, farther ashore between the time that you took your first observation on Monday and your last observation on Wednesday, altogether? How far would you say that she had gone in there between those two days?

A. May have gone a hundred, hundred and fifty feet; something like that.

Q. And when you testify that she had gone in a hundred or a hundred and fifty feet, you mean between your first observation and your last observation? A. The last I seen of it.

Mr. OLSON.—That's all.

Redirect Examination.

Mr. MAGOON.—Q. You were speaking, Captain, of the danger to the Miller Salvage vessels by reason of being tied to the "Celtic Chief" and you were stopped when you were about to say something about the reference to the special danger on account of being tied there in that position. What danger was there in addition to what you have testified to, to the Miller Salvage boats by reason of being tied to the "Celtic Chief"?

A. Carry away some of the bitts; that actually did happen, too.

Q. What was the danger, what might have happened?

A. She might knock the whole side in too hard when she comes with a bang against the vessel.

Q. Then that was one of the dangers, having her

(Testimony of William Wiesbarth.)

whole side smashed in?

A. Yes, you see the vessel is [1079—235] made fast fore and aft, raise her up on the swell and that brings her against the other vessel.

Q. What was the liability of encountering such a swell at that time at that place? Was there liable to be swells of that nature or not?

A. No, there wasn't such a heavy swell.

Q. Was there liable to be or not? Was there likely to be? Was there a chance to have a heavy swell there? A. It wasn't that day.

Q. It was not that day. Well, might there have been while the Miller Salvage Co. boats were lying there tied to the "Celtic Chief" in that way, taking into consideration the kind of weather there was at that time,—could there suddenly have been a heavy swell, unexpectedly to cause that damage that you speak of?

Mr. OLSON.—Object to the question on the ground that it is leading; further on the ground it is improper redirect.

The COURT.—I sustain the objection at this time.

Q. Mr. Olson brought out the fact from you that these boats were old, Captain; does the question of age materially affect the value of a vessel if it is kept in good condition, the repairs kept up all the time?

A. Well, I think it depreciates a little as the vessel is getting older, but in the same time the vessel is in good order, was perfectly seaworthy when we went out there.

Q. Now, you were asked by Mr. Olson, I think also by Mr. Warren, with reference to the comparison of

(Testimony of William Wiesbarth.)

the pull on the Miller Salvage anchor and the pull by one of those steamers with an anchor out in front. You call that to mind, do you? Now, then, I'll ask you what would be the effect of the pull of one of the steamers with an anchor out in front with only a short piece of chain?

Mr. WARREN.—I object to the question, if the Court please, on the ground that it does not appear that any such condition exists. [1080—236]

The COURT.—The objection is sustained. I will allow you to get at that in another way.

Mr. MAGOON.—I'll withdraw the question. I'll ask you, Captain, would it make any difference with reference to the pull exercised by the Inter-Island steamers whether or not they had an anchor chain in front; that is, in case they had an anchor chain in front would that give them, would the pull which they would exercise have prevented the "Celtic Chief" going further on the reef?

A. If they had chain enough out, of course, they would keep the vessel from going higher up.

Q. That's practically what you said before, isn't it? A. Yes.

Q. Now, then, just explain to us how that, how it would have that effect, an anchor chain would keep the steamer from going further in but would not the steamer be still subject to the swell?

Mr. WARREN.—Object to the question as leading, your Honor.

Mr. MAGOON.—I withdraw that. Would or would not the steamer still be subject to the swell which you speak of even though she had a chain in

(Testimony of William Wiesbarth.)

front? A. She would rise and fall with the swell.

Mr. WARREN.—Object to the question as immaterial.

The COURT.—Objection overruled.

A. She would rise and fall in the swell. The steamer would.

Q. Would that rising and falling in the swell not allow the “Celtic Chief” to still go on to the reef?

A. I don’t think if the hawser were taut that she could go any further out if they had chain enough out.

Q. How much chain should you say would be required to work that result?

Mr. WARREN.—Object to that question, certainly, as not having a proper foundation.

Mr. MAGOON.—I withdraw that. What do you mean by that expression, if there is chain enough?
[1081—237]

A. Each vessel got 220 fathoms on board. If they could pile the whole chain out it would surely keep the vessel from getting hurt.

Q. Why would it, Captain?

A. The anchor chains of the steamer would keep the steamer in place and the hawser would not allow the vessel to go in.

Q. Are those anchors on those vessels for the purpose of pulling like the Miller Salvage anchor or are they for the purpose of—

Mr. WARREN.—That’s nothing, if not leading.

The COURT.—Objection is sustained.

Q. What is the object of the anchors? What do they have those anchors in the Inter-Island boats for?

(Testimony of William Wiesbarth.)

A. To keep the vessel in place should they swing; in fact, to moor the vessel, to hold her in position.

Q. Was it necessary to pull to get a strain on her winch?

Mr. WARREN.—Object to the question; it does not appear that the witness has knowledge of all of the boats and anchors and chains.

The COURT.—I will not go to the general question, but because this question is permitted of those anchors—

Mr. MAGOON.—I'd like to withdraw that, Captain; are you familiar with the anchors which the Inter-Island boats carry, and those Inter-Island boats that I had— A. Yes, I know them.

Q. Are you familiar with the length of chain?

A. They carry a certain amount of chain and a certain weight of anchor. They have to carry that by law.

Q. And you are familiar with that? A. Yes.

Q. With the anchors that those boats carry and the chain that they carry would those anchors and those chains add any more to the vessel when she was pulling on her winches?

Mr. OLSON.—I object to the question on the ground that it doesn't appear that they did pull by means of their winches.

Mr. WARREN.—We do claim that those anchors were fastened to the winches, that their own anchors were held fast by their winches forward. [1082—238]

I object to it on the ground that it doesn't appear that this witness knows what depths of water there is

(Testimony of William Wiesbarth.)

out there which has all to do.

Mr. MAGOON.—I withdraw that question. I will direct my question to the other proposition that was brought out by Mr. Warren very clearly and that was the effect of the pull of the Inter-Island boats to prevent the “Celtic Chief” from going further on the reef. I will ask you, Captain, whether or not from your observation of the anchor chains as they were down there and the boats as they were anchored and the condition of affairs there at the time, whether or not the Inter-Island boats did prevent the “Celtic Chief” in any way from going further on the reef?

Mr. WARREN.—I object to the question as being based on conditions which didn’t exist. The captain has testified he doesn’t know, he didn’t see those anchors, and further, it calls for a conclusion of the witness and it doesn’t appear that he is acquainted with all the facts and conditions.

The COURT.—I will sustain the objection of Mr. Warren at this time although if you bring me some argument on the point I will reconsider the matter.

Q. Now, Captain, you testified yesterday that if there was no pull exerted at the stern of the “Celtic Chief,” she might have turned around, turned broad side on and made a cradle for herself, did you so testify?

A. I don’t know if I did. I don’t know, I don’t remember it.

Q. What did you say in that connection, do you remember, about the “Celtic Chief” turning broadside on to the reef and making a cradle for herself?

A. The swell was taking—it’s the action of the

(Testimony of William Wiesbarth.)

swell that swings the vessel, coming from one quarter to the other she rises a little and that shifts her in.

Q. Now, taking into consideration the swell which did run at that place from the time the "Celtic Chief" went ashore until she was taken off, would there have been any tendency with that swell for her to turn broadside on to the reef?

A. She might have turned on if the swell was heavy enough. [1083—239]

Q. As the swell was there, was there any danger of her turning broadside on the reef?

A. In my opinion, the vessels would keep her in the same position that she was there, head on, she wouldn't swing around.

Q. If there had been no vessels attached to her at all and a swell running just as it was and as you saw it there, do you think that the "Celtic Chief" would maintain the same position she was in or not?

A. She would have gone broad side on with a swell.

Q. I'm talking about the conditions just as they were.

A. She would gradually work herself broadside on.

Q. How long would it take her?

A. It might take an hour or might take three or four days. It might take a week.

Q. How would that work—would it come about slowly or quickly supposing she got started?

A. Slowly. Every time the swell comes in the weight of the vessel will push her in.

Q. An inch at a time, or two or three.

A. It might be possibly a foot at a time; it might be two feet.

(Testimony of William Wiesbarth.)

Q. And I understand you to say that a steamer off five hundred or a thousand feet, pulling straight astern, would prevent the stern from sluing a few inches or a foot?

A. Prevent the vessel something. So much as that would not make any difference.

Q. Then what I understand you to say is that the vessel, the "Celtic Chief," was prevented by the steamers that were pulling, these steamers that you speak of, say, a thousand feet, from going on to the reef, from turning toward the reef say five inches or a foot. You think, in other words, that these lines would keep her in a straight position and she couldn't swing one way or another?

A. I think if they had the chance they would keep the vessel in position.

Q. Notwithstanding they couldn't keep her from going bow-on [1084—240] they would keep her from swinging around? A. They might do that.

Q. Do you think that if no rope had been attached to that ship at all, she would have gone broadside on to the reef before she came off on Wednesday night?

A. If there had been no rope made fast to it, the vessel would have stayed there.

Q. Would she have stayed right where she was or would she have swung around?

A. The swell would finally turn her around.

Q. I'm asking from the time that she went on to the time she came off, if there had been no rope attached to her at all, in your opinion, would she maintain the same position?

A. I think the vessel would turn broadside on if

(Testimony of William Wiesbarth.)

there was nothing to keep her from going that way.

Q. Before she came off? A. Yes.

Mr. OLSON.—Before Wednesday night?

A. That's hard to tell.

Q. That's what Mr. Magoon is asking you.

A. That's impossible to tell.

Q. She might have gone straight in?

A. She swung around. The sea was coming from the starboard quarter.

Q. Might she have gone straight in?

A. That's hard to tell.

Q. It might have?

A. Might or might not. Might have stayed there just as she was.

Mr. MAGOON.—That is, she might have stayed just as she was or she might have swung broadside, you can't tell.

A. It's hard to tell. You can't tell what a vessel will do.

Mr. MAGOON.—That's all.

Mr. OLSON.—No further questions.

Recross-examination on Behalf of Inter-Island Steam Navigation Company. [1085—241]

Mr. WARREN.—Q. If she had turned broadside what chance would there have been to get her off?

Mr. MAGOON.—Object to it; it's not recross.

Mr. OLSON.—No, that's not recross. I object to it on the same ground.

The COURT.—I'm inclined to disallow the question.

Q. Now, Captain, you say you were familiar with

(Testimony of William Wiesbarth.)

the anchors and chains on these Inter-Island boats, are you?

Mr. MAGOON.—I object to it because your Honor would not allow us to go into that.

The COURT.—I'll allow the question.

Q. You say you are familiar with them?

A. Yes, each vessel is required to carry a certain weight of anchor and so much chain and I've been in all of them steamers—I know what anchors and chains they carry.

Q. And that's your *understands* of the situation, is it, because they were required to carry so much chain therefore you know they had that much. You don't know whether or not on that occasion they were using that?

A. I don't know if they used it but they must have that amount of chain aboard.

Q. How many fathoms of chain are they required to have for an anchor?

A. 120 fathoms on each bow.

Q. On each anchor? A. Yes.

Q. And the weight of the anchors?

A. That is from 2,000, 2,200, 2,400, going up to 3,000; some only 1,800, 1,600; different size of steamers.

Q. As to those Inter-Island steamers do you know what they are required to carry?

Mr. MAGOON.—I object to it; your Honor wouldn't let me ask any question that bore on that point.

The COURT.—Objection overruled.

Q. How many fathoms of chain did the "Mika-

(Testimony of William Wiesbarth.)

hala" carry? [1086—242]

A. 120 fathoms on the starboard side and 120 on the port side.

Q. Now, the "Helene"?

A. The same amount of chain only the "Helene" carries heavier anchors than the "Mikahala." The "Mikahala" is a smaller vessel. Sometimes when it blows heavy she got to have both anchors, might be you have to pay the whole chain out. You got to carry that amount of chain.

Q. You don't know whether they had more chain on board than that?

A. Oh, they never carry any more chain.

Q. How do you know?

A. That's all that's required.

Q. Do you know whether or not on this particular occasion they had more chain?

A. I don't know that. Might have been out the whole chain.

Q. You don't know how much anchor chain they had? How much they used or the weight of the anchors?

A. I told you from 1,600 pounds to 24, 25, or 2,600 pounds.

Q. Might there have been a 2,600 pound on the "Mikahala"?

Mr. MAGOON.—I object.

The COURT.—I allow the question.

Q. You say she did carry that?

A. I don't know. I haven't been aboard of them steamers. I don't know anything about them, what they carry and what they don't carry.

(Testimony of William Wiesbarth.)

Mr. OLSON.—You knew at the time of these “Celtic Chief” operations?

A. I never seen their anchors and chains only when they were there.

Q. At that time? A. At that time, yes.

Recess. [1087—243]

[Testimony of Isaiah Bray, for Libelant.]

Direct Examination of ISAIAH BRAY, a witness called on behalf of Miller Salvage Co., Ltd., and sworn.

Mr. MAGOON.—Q. What is your full name?

A. Isaiah Bray.

Q. Have you ever been a seafaring man?

A. Yes.

Q. For how many years were you such?

A. Over forty.

Q. How long has it been since you followed the sea?

A. Following it every day now in a certain way.

Q. What experience have you had in taking a stranded vessel off?

A. Well, I have had more or less in that line during eleven years of sailing between these Islands and other Pacific Islands.

Q. Beginning with your first experience, if you please, give us a short statement of that.

A. I'd have to go a good ways back to do that.

Q. That's what you will have to do then.

A. In these Islands you mean?

Q. Yes.

A. The last voyage I was mate of the ship we were beating up Manilla Bay one night and in taking the

(Testimony of Isaiah Bray.)

ship we went to ——— Island and stuck fast.

[1088—244]

Q. Did your vessel get off? A. Yes.

Q. Were you present at the operation of pulling her off or taking her off?

A. I was superintending the whole thing.

Q. You were mate at that time?

A. First mate.

Q. How was the vessel pulled off?

A. By an anchor put out to stern.

Q. Prior to that had there been any attempt to pull her off by ships, boats, or anything of that sort?

A. No, there was nothing there to assist.

Q. Your next experience?

A. I don't know as I can tell you one after another.

Q. I don't care about regular order. Another that comes to your mind?

A. I had several experiences down in Marshall, Gilbert, and the Caroline Island amongst coral reefs.

Q. At that time what position did you hold on the ship? A. Master.

Q. By the way, how long have you been master mariner? A. Thirty-two years.

Q. What, in what ways, what was the way of pulling your vessels down in the Gilbert and Caroline Islands?

A. There was never but one way: either backing off by the sails or hauling off by anchors put out astern.

Q. Have you had any other experiences than those you have mentioned?

(Testimony of Isaiah Bray.)

A. I had one very peculiar experience in the Caroline Islands at one time of getting on the reef and we were two or three days stuck fast. Of course, there was no tugs or any steam power to assist us and we put an anchor out [1089—245] astern and hove on that and worked full steam astern, but what puzzled me at that time was that we were going on to the reef all the time although we were pulling on the anchor and going astern full speed with our steam power and I reasoned this way: Going astern and pulling on a stern line at the same time is working us further on the reef, why wouldn't going ahead work her off, and I was very much surprised and began very easy to go with the engine and at the same time heaving on the lines. I was very much surprised to see her going very quickly off the reef.

Q. How did you account for that?

A. Well, the only way I could account for it was that while she was going astern she was throwing the water up from the reef; when she was going ahead she threw it on the reef, and, pulling on the anchor slipped off.

Q. Have you had any other experiences than those?

A. I was having them all the time I was down amongst those islands.

Q. Have you observed the salvage operations of any ships here in the Hawaiian Islands?

A. Not particularly.

Q. Were you present at the "Manchuria" when she was stranded? A. No, didn't see her.

(Testimony of Isaiah Bray.)

Q. The "Sherman" or "Sheridan" out here at Barber's Point?

A. I simply saw her in the distance.

Q. Did you have anything to do with the "Miro-wira"? A. No, I wasn't here at that time.
[1090—246]

Q. Now, coming down to the salvage of the "Celtic Chief," did you observe the "Celtic Chief" as she was stranded out here in front of the harbor?

A. Yes. I was outside of the harbor when she went ashore.

Q. Please describe how she went ashore. Just briefly, not too much detail.

A. She came running up as if a crazy man had charge of her and ran her right straight past the harbor and, as far as I could see, on the reef.

Q. Did you go on board of her at the time?

A. I put the doctor on board.

Q. You went alongside of her?

A. We were out taking the doctor to the "Chiyo Maru" that morning and the schooner and while we were giving these vessels pratique the "Celtic Chief" went past and went ashore. Dr. Sinclair was boarding officer that morning and he said, "She's aground; we won't have to go there." I told him if he would allow me to suggest that was the reason we should go. I thought the captain would be very thankful to him to give him pratique so that they might come ashore, and he did so. He went alongside the boat after she was stuck.

Q. How long did you remain alongside of her?

(Testimony of Isaiah Bray.)

A. Oh, I should judge twenty minutes; half an hour, possibly.

Q. From your position could you form an estimate as to how much of her was ashore?

A. Well, she seemed to me, as far as I could notice, lying her bottom touching all along.

Q. All along from stem to stern?

A. I should say so. [1091—247]

Q. Was she moving at all?

A. Nothing more than a little motion, small roll.

Q. What was the condition of the water, the ocean? A. It was not very rough that morning.

Q. As to the swell?

A. Usual swell; nothing extraordinary.

Q. What was the wind?

A. I think it was about northeast.

Q. Strong or light? A. Good, fair breeze.

Q. Now, did you go to the "Celtic Chief" after that? A. Yes.

Q. At what time? A. Next day.

Q. What time of the next day?

A. Soon after noon, I think.

Q. What did you do there at that time?

A. I went there with two of the doctors simply to take a look at her. They wanted to see her.

Q. What was her condition at that time with reference to her condition when you last saw her previously?

A. She had worked a little farther on the reef.

Q. Could you say how much further?

A. Over her own length.

Q. And how long a ship was she?

(Testimony of Isaiah Bray.)

A. I couldn't say.

Q. At the time that you visited her on the second occasion were any ships attached to her, do you remember?

A. Some steamers were pulling on her at that time.

Q. Do you know what steamers they were?

A. The "Huki Huki," the small Young boat, and the "Mikahala," the tugboat; I think the "Iwalani" was there then.

Q. Did you observe whether or not those boats pulling on [1092—248] her had anchors down in front? A. They had; yes.

Q. Could you tell from the angle of the anchor chains about the length of the chain that they had out?

A. I couldn't tell. There seemed to be a long slope of chain out.

Q. You couldn't tell from the slope how much chain, about?

A. I should judge they all had at least six or ten fathoms.

Q. Would the chain that they had, from six to ten fathoms, assist them any in the pulling operation, if they had wanted to pull? Would that have assisted their pulling capacity?

A. I should judge it would, somewhat; hold whatever they made.

Q. Hold what they made?

A. If they made anything.

Q. What's that?

A. If they made any progress and they hove in

(Testimony of Isaiah Bray.)

on the cable at the same time, it would save what they had made; what they had gained; whatever they had gained in towing.

Q. That is, it would just simply hold what they made. Would it assist them any in gaining ground in pulling?

A. Oh, no, not at all. I don't think so.

Q. What, if anything, was being done to the cargo when you went out the second time?

A. I think they were discharging some of the cargo.

Q. Did you visit the ship again?

A. Not after that. I think we went down towards where she was but not alongside.

Q. Did you observe after that, the salvage operations?

A. I took no particular notice of that any more than to notice that they were discharging more or less cargo. [1093—249]

Q. But did you notice what was being done to get the ship off the reef after you visited her the second time?

A. Yes. I was watching them more or less from the Quarantine Wharf.

Q. Were you watching through, with your naked eye or with your glasses? A. Glasses.

Q. What did you observe was being done in that regard?

A. Just what I never would have thought of doing myself.

Q. What was that, Mr. Captain?

A. I never would have allowed one of the steam-

(Testimony of Isaiah Bray.)

ers to have given me a line unless there was a last call on hope.

Q. Why wouldn't you have allowed them to give you a line?

A. Because their motion, I think, did more to work the ship farther on to the reef than to pull her off.

Q. Just explain that.

A. For instance, when I went alongside of her with our launch there was such a cataract running in from the steamers in towards the reef that I could hardly handle our launch, and my idea was that the anchor that was out astern was doing *was to prevent her from this big steamer water stirred up by all of the steamers which was throwing her farther on the reef.*

Q. That is, if I understand it right, this current which was caused by the pulling steamers was forcing the ship on to the reef?

A. Yes. All those streams were working against and tended rather to work her further on the reef.

Q. And this would, in your opinion, account for the fact that she did go on the reef further, or not?

A. I think that's one of the reasons. [1094—250]

Q. Now, what else did you observe with reference to the salving of the ship from where you were, from Quarantine Island, wherever it is?

A. Nothing more than the motion they seemed to be making aboard the ship.

Q. Did you see the big anchor being placed? Did you see that operation? A. No, I did not.

Q. Going back to this question of your launch, what kind of a launch was that as to power?

(Testimony of Isaiah Bray.)

A. Oh, it's a boat that had about seven or eight miles an hour power.

Q. Was it a steam or a—

A. Steam launch, twenty-five horse-power.

Q. And just what was the difficulty that you had there in operating that launch against this current?

A. Why, the currents that were being thrown back by these steamers made such a commotion or whirlpool that it was difficult to steer or to back or go ahead; almost lost control of the launch.

Q. Now, are you familiar with that Miller Salvage anchor?

A. Well, I've seen it on the wharf and I saw it when it was brought from the "Manchuria" and took particular notice of it after I had heard what they had done with it.

Q. What is your opinion as to the ability of that anchor to pull the "Celtic Chief" off the reef?

Mr. OLSON.—I object to the question on the ground that it's uncertain, and furthermore on the ground there's no proper foundation laid, and further on the ground that it's incompetent, irrelevant, and immaterial.

Mr. MAGOON.—Assuming, Captain, that that anchor is properly attached [1095—251] to the "Celtic Chief" with a cable sufficiently large and which has sufficient power to make the pull, state whether or not, in your opinion, that anchor could pull the "Celtic Chief" off of the reef in the position that she was in.

A. Well, I would answer that in a little different way. I'd say it didn't depend so much on the size

(Testimony of Isaiah Bray.)

of the anchor as it did on the power behind it. An anchor half that size with the same power that was put on that would have probably been just as efficient as that anchor under the circumstances.

Q. Taking this anchor as it was, could you answer the question?

A. Well, of course, the heavier the anchor the weight would assist more or less, if the anchor was heavy.

Q. Well, take this anchor.

A. If the anchor was seven tons her own weight would be of some assistance, more than a five-ton anchor.

Mr. OLSON.—Q. Taking ahold you mean?

A. Yes.

Mr. MAGOON.—Q. In addition to the actual weight of the anchor, would it make any difference if one of the flukes of the anchor were caught under a ledge of rock?

A. It wouldn't hold until—that's probably where it was caught.

Q. Well, now, then, we take that anchor, that Miller Salvage Co. anchor that you have referred to, shackle and attached as I have told you, will you state whether or [1096—252] not, in your opinion, it was sufficient to pull the "Celtic Chief" off the reef as she was when you saw her there?

Mr. OLSON.—I object to the question on the ground there is no proper foundation laid.

Mr. MAGOON.—I'll make it clear, Captain, by adding if there was sufficient power applied and the cable was sufficiently large and strong, that was at-

(Testimony of Isaiah Bray.)

tached to the anchor, could the "Celtic Chief" be pulled off from the reef from the position that you saw her, by that Miller Salvage anchor?

A. I don't see any reason why.

Mr. OLSON.—Q. Why or why not?

A. Why she shouldn't be.

Mr. MAGOON.—Q. Now, did you see the purchases or the purchase as laid on the deck of the "Celtic Chief" and attached to that anchor, Captain?

A. Only from the launch. I wasn't on board at all. All I could see was standing on the deck of the launch.

Q. And could you see the purchase from where you were?

A. Well, more or less. I didn't take any special notice of it.

Q. Did you observe the size of the ropes?

A. No, I don't think I noticed particularly; not enough to state the size.

Q. Did you observe the rope that was attached to the anchor, whether it was wire or manilla?

A. Wire, I think.

Q. Did you observe the size of it?

A. I don't remember.

Q. Could you tell us, did you take enough notice of that purchase to tell us how it was rigged, at this time? [1097—253] A. No.

Q. Now, assuming that there was a three-inch wire cable attached to the anchor and that the wire cable was attached to a block or block and tackle or fall, sufficiently strong, with falls sufficiently strong to stand the strain, and that the blocks, the

(Testimony of Isaiah Bray.)

head blocks, were lashed from the mainmast to the bitts of a size sufficiently strong to stand the strain, could the "Celtic Chief" be pulled off by the means of that Miller anchor by using the winch, the capstan with men at the bars?

Mr. OLSON.—I object to the question on the ground that no proper foundation has been laid; furthermore, that the question does not state all of the conditions actually existing, and, therefore, does not properly lay the foundation for a hypothetical question; and in the third place, it does not appear that the witness is qualified by knowledge to testify without knowing what kind of a capstan was used and how the tackle was actually rigged.

Mr. WARREN.—Same objection.

Mr. MAGOON.—I'll withdraw the question then. Did you notice the capstan on that ship, Captain, sufficient to state whether or not that is, to give a approximate idea as to the power it would exert?

A. I couldn't answer the question intelligibly unless I knew the kind of tackles that they were using, how many luff tackles they had on.

Q. First, I would like to get your knowledge as to the capstan. Did you notice the capstan on the ship?

A. I noticed they had a large, substantial capstan.

Q. Assuming that the first block was from the cable to the lashing, from the mast to the bitts, and that they [1098—254] had two purchase tackles on to the first fall, the main tackle and two purchase tackles.

(Testimony of Isaiah Bray.)

A. Pardon me; couldn't Captain Miller describe it?

Q. If Captain Miller would ask that question—I'll try to do it. The first tackle that was attached to the wire cable had a luff on it. That's clear now, isn't it?

A. Yes.

Q. And that luff had another luff on it, luff upon luff. A. What size rope?

Q. The first block, first tackle? A. Yes.

Q. Seven-inch for the first tackle; five-inch, second; and three and a half-inch for the third; and the third, all of them treble blocks and the last luff ran to the capstan, about twenty-six men at the capstan; state, please, whether such a purchase would be able, in your opinion, to pull off the "Celtic Chief," from the condition she was in when you saw her.

Mr. OLSON.—I object to the question on the ground there is no proper foundation laid, it not appearing that the witness is qualified to testify, and, furthermore, on the ground that it doesn't appear whether or not he knows how solidly she was aground.

Before that questions is asked, I'd like to go into the qualifications of the witness.

The COURT.—It will be allowed.

Mr. OLSON.—Captain, do you know the tonnage of the "Celtic Chief"? A. I do not.

Q. Do you know the tonnage of cargo that she was carrying? [1099—255] A. No.

Q. Those would have a bearing, would they not, upon the amount of power that would be necessary to pull her off? The actual dead weight of the vessel as she lay there on the reef, that would have a very

(Testimony of Isaiah Bray.)

material bearing upon the question of about how much power it would be necessary to pull her off?

A. Yes.

Q. Do you know the condition of the bottom at the point where the anchor was laid?

A. Pretty thoroughly.

Q. What did that consist of?

A. It seemed to be a pretty hard kind of coral.

Q. Coral? A. Sand; coral and sand.

Q. Is it necessarily such a bottom as, in your opinion, the anchor would hold in it?

Mr. MAGOON.—I object to it on the ground there is no evidence that the anchor was laid there.

A. Anchors will hold well anywhere up and down that coast out there.

Q. Would it hold sufficiently well in that bottom there to bring off a vessel of the size of that the "Celtic Chief" appeared to be to you, if she were well loaded and fast and hard aground?

A. Well, of course, that depends on circumstances. Sometimes the tide is higher and sometimes it is lower.

Q. In other words, you mean to say it is pretty hard to tell whether or not the anchor would hold.

A. I think anchors of the weight of the one in question here in places of that kind would hold.

Q. Did you take any soundings around the vessel?

A. I couldn't say. If I remember correctly, I took two [1100—256] or three soundings for our own benefit.

Q. Do you know the draught of the "Celtic Chief"? A. I do not.

(Testimony of Isaiah Bray.)

Q. You don't know how much water she was drawing?

A. If I remember correctly, I noticed her bow was out from the original watermark, I would not be positive, but perhaps three feet or so.

Q. But you don't know what the depth of her hull was at her bow from the point of the waterline as she lay there down to her keel? A. No.

Q. Did you examine carefully her berth as she laid there on the reef?

A. I took as good a look as I could under the condition of the water.

Q. It was difficult to see? A. Yes.

Q. The water being stirred up as it was, you couldn't make out anything very clearly about the bottom?

A. I don't know that I tried. I didn't take any articular pains to.

Q. And at present you can't testify that you know how she was aground in so far as the condition of the bottom is concerned?

A. About all you could see was a portion of her bow.

Q. It was above the water. You were able, were you not, to determine from your casual, as you've said it was, examination, just how she lay in the bottom of the ocean on the reef?

A. The only way I could judge of that was the manner in which she lay there.

Q. The superficial view that you obtained?

A. Yes. [1101—257]

Q. No examination whatever of the bottom or her

(Testimony of Isaiah Bray.)

condition there? A. No.

Q. Might there not be condition under which it would be much more difficult to bring the vessel off than at other times, depending on just how she happened to go aground?

Mr. MAGOON.—This is all interesting, but it's cross-examination.

The COURT.—Objection is overruled.

Mr. OLSON.—Will you answer the question, Captain? Add to that question, and how she lay aground.

A. I don't know why there should be any trouble unless it was a high sea, large swell than usual, something of that kind.

Q. Wouldn't the condition of the bottom have something to do with it, whether or not she would stick more tightly—whether or not there would be obstruction due to the condition of the bottom?

A. There are different kinds of bottoms, more or less hard and sand.

Q. And that has a bearing on the question of how difficult it was, it would be to get her off?

A. Allow me to answer it in my way. I have found that there is a good deal of sameness about all this matter of coral bottoms, and, as far as my own experience has been, I have found that in the various times my ship has been ashore, that she simply imbedded herself in the coral and made a kind of a model or form. It is simply a question of more or less power to pull her away.

Q. Captain, suppose that the "Celtic Chief," after she had gone aground, the distance further that you

(Testimony of Isaiah Bray.)

have already [1102—258] testified to, between the first time you saw her and the second time, namely, her own length, assume that at the time of your second observation she had worked herself somewhat deeper into the coral, would it be more difficult to pull her out with the hauling anchor, her forming an obstruction—

Mr. MAGOON.—I object to that because counsel is certainly assuming something that may or may not be material in this case. Withdraw it.

Mr. OLSON.—Will you answer the question then, Captain? The question was, if, after she had gone this distance further aground, she had worked a bed for herself deeper, would it not be more difficult to bring her off than if she had not worked such a bed for herself? A. I should say not.

Q. Why not?

A. When I noticed that she was eating her way into the reef I think I remarked to my engineer that it couldn't be very solid, and if she was working her way into it she was working more or less loose coral on each side and I should say she would have gone off easier.

Q. Even though she worked herself down deeper into the reef than she lay when you first saw her?

A. She had made a cradle for herself.

Q. Her weight and the action of the sea had made a cradle or a berth so that she had sunk down deeper in the coral. Wouldn't it then be more difficult to bring her out of this hole?

A. I don't think it would be a hole.

Q. Suppose she had worked herself down into a

(Testimony of Isaiah Bray.)

hole or [1103—259] berth deeper into the coral it would be more difficult to get her off?

A. It would if that was the case, but I think it was not.

Q. Now, then, Captain, did you know from your observation that that was not the case at the time, on Wednesday night?

A. I could only use my best judgment about such things.

Q. On Wednesday night did you observe her?
On Wednesday night? A. Yes.

Q. Wednesday night, the night when she came off?

A. The night before she came off.

Q. The night she came off.

A. Yes, I think so.

Q. Where were you when you made the observation?
A. Out alongside of her.

Q. You were out alongside of her?

A. She went on on Monday morning. I couldn't say whether it was Tuesday or Wednesday. I think it was Wednesday.

Q. How many times were you out there altogether?

A. Twice alongside.

Q. The first time was the morning she went on?

A. Yes.

Q. The next time was the next day or two days later?
A. I couldn't say.

Q. What do you think it was?

A. I think it was the third day.

Q. In the afternoon or evening? A. Afternoon.

Q. Then you don't know her condition about midnight of Wednesday night?

(Testimony of Isaiah Bray.)

A. No. [1104—260]

Q. You don't know how she lay? A. No.

Mr. OLSON.—Now, then, if the Court please, I submit that the captain is not qualified to answer because he doesn't know how heavy the vessel was even approximately, nor the amount of cargo that she had on, and, therefore, he is not qualified to answer the question.

Mr. WARREN.—May I add to that, your Honor? It seems to me that Mr. Magoon is overlooking altogether the fact that this is a hypothetical question not based on fact but assumed facts; therefore, Mr. Olson's objection goes right to the point.

Mr. MAGOON.—I'd like to add two more facts, your Honor, to it. The ship's gross tonnage, Captain, being 1789 tons, her length being 266.8 feet, her breadth being 39.5 feet, her depth being 32.3, her moulded depth being 24 feet, seven inches, her cargo being 1600 tons. Now, with those additions to the question, I'd like to ask the captain whether or not the ship could have been pulled off by the Miller Salvage anchor?

Mr. WARREN.—I think it would be helpful to have the entire question read.

The COURT.—I was going to suggest, Mr. Magoon, that we take a recess until to-morrow morning, perhaps, a little earlier in order to form that question very carefully.

Mr. MAGOON.—Couldn't we go on with some other portion of the man's testimony?

The COURT.—The question will be withdrawn for the present with leave to renew it.

(Testimony of Isaiah Bray.)

Mr. MAGOON.—Reserving my right to have him answer this question, cross-examine.

The COURT.—The question is withdrawn with the right to renew it. [1105—261]

Cross-examination on Behalf of Libellee.

Mr. OLSON.—Q. Captain, what time of day was that you first went over to the "Celtic Chief" and what day was it?

A. It was the day she went ashore. It was in the morning, I should judge, about—must have been pretty nearly eight o'clock. It might have been a little before or little after.

Q. Well, you say it was pretty nearly eight o'clock in the morning?

A. Somewhere about that, I should judge. We had been to two ships before that.

Q. It was daylight?

A. We left Fort Street at half-past six.

Q. Left where?

A. Left Fort Street to go out to the two ships at half-past six.

Q. It was after you had gotten out to these other two vessels that you saw her come sailing up?

A. It was.

Q. Between seven and eight? A. I think so.

Q. It was full daylight? A. Oh, yes.

Q. There is no question about that? A. No.

Q. It was the "Celtic Chief" you saw going by?

A. Yes.

Q. And you saw her go ashore? A. Yes.

Q. Now, you know it was daylight when this occurred? A. Perfectly sure.

(Testimony of Isaiah Bray.)

Q. You are positive? How far was she from the point where she went on the reef when you saw her sailing, come sailing in? [1106—262]

A. Well, she came up, I don't know whether we were inside or outside of her, when she passed us.

Q. How long from that time until she went ashore, would you say it was?

A. I should say it was less than a half an hour.

Q. So she must have gone aground somewhere about half-past seven or eight o'clock?

A. I think it was after eight o'clock.

Q. What time does daylight break at the earliest at any time in the year in Honolulu?

A. Four or five o'clock.

Q. Now, Captain, if it were a fact that the "Celtic Chief" actually went on the reef at two-thirty o'clock in the morning, then your testimony would not be correct, would it? And are you prepared to swear that she didn't go on as early as that in the morning?

A. I wouldn't swear to anything until I looked at my log-book.

Q. You have not proposed to tell the Court that she went up there between seven and eight o'clock without referring to your log-book? Witnesses have testified in this cause that she went ashore about two-thirty in the morning, Monday morning, December 6. I want to ascertain from you whether or not you still wish your testimony to stand?

A. I don't think I've got it confused with any other ship.

Q. You may have got it confused?

A. I say I don't believe I have.

(Testimony of Isaiah Bray.)

Q. You saw her go ashore? [1107—263]

A. Yes, I am sure.

Q. You saw her coming in the harbor while you were going out in this Quarantine Launch?

A. Well, we were out there.

Q. You saw her come from around Diamond Head way and then pass into the harbor or into the mouth of the harbor and go to the other side? A. Yes.

Q. And it was daylight? A. It was daylight.

Q. How do you know that that was the "Celtic Chief"?

A. Because I've got it in my log-book of taking the doctor aboard and giving it pratique.

Q. Then you don't remember of your own knowledge whether it was the "Celtic Chief"?

A. Yes, it was.

Q. Did you give the "Celtic Chief" pratique?

A. Yes, after she was ashore.

Q. And you know that that vessel went ashore after daylight, between seven and eight o'clock?

A. Yes.

Q. And if, as a matter of fact, the "Celtic Chief," that we are concerned with in this case went ashore as early as about two-thirty o'clock that morning, then it was not the same vessel, couldn't have been the same vessel? A. I should say not.

Q. Then the evidence that you have given on direct could not be in respect to the vessel that went ashore, if she did go ashore at two-thirty?

Mr. MAGOON.—I object. What is the use of that sort of a question?

The COURT.—Objection overruled.

(Testimony of Isaiah Bray.)

Mr. OLSON.—Answer the question, Captain.
[1108—264] A. What was it, please?

Q. The question is this: If, as a matter of fact, the “Celtic Chief” that we are concerned with in this case went ashore at two-thirty o’clock in the morning, it’s a different vessel from the one you have been talking about in response to Mr. Magoon’s questions?

A. I know the “Celtic Chief” went ashore at that time and we went alongside of her.

Q. But it was not the vessel that went ashore at two-thirty of December 6? A. I don’t know.

Q. You know when she went ashore? A. Yes.

Q. And she did not go ashore at two-thirty?

A. No.

Q. And she went ashore after daylight?

A. Yes.

Q. And after you had seen her coming from Diamond Head, after you placed the doctor out there?

A. Yes.

Q. When you went over to the “Celtic Chief” how much later was that?

A. It was after we left the other two vessels.

Q. About how much later?

A. An hour and a half or two hours, perhaps.

Q. And it would be somewhere in the neighborhood of half-past nine or ten?

A. I don’t think it was as late as that.

Q. Half-past eight or nine?

A. Yes. [1109—265]

Q. That would be an hour or half an hour after?

A. I couldn’t say exactly when she went ashore.

Q. You think it was about nine o’clock that you

(Testimony of Isaiah Bray.)

went over to her and gave her pratique?

A. I think it was little earlier than that. Between eight and nine, probably.

Q. At the time that you went alongside of her were there any other vessels out there?

A. I think only the "Huki Huki."

Q. The "Huki Huki" was there?

A. The Young's launch, I believe, was there.

Q. Do you know when the "Huki Huki" went out? A. No.

Q. Do you know where the "Huki Huki" was immediately before she went out that morning?

A. I know nothing about that.

Q. You didn't see the "Huki Huki" until you came over to the "Celtic Chief"?

A. We saw her coming towards her.

Q. How long was that before you actually came alongside the "Celtic Chief"?

A. I don't remember whether she got there first or we did.

Q. You don't remember that? A. No.

Q. It was about the same time?

A. I think it must have been about the same time.

Q. Where were you when you saw her coming over toward the "Celtic Chief"?

A. The "Huki Huki"?

Q. Yes.

A. I couldn't say whether she was doing the boarding that morning or whether she came out of the harbor. She was outside of the harbor [1110—266] when I first noticed her.

Q. Where were you?

A. We were lying out there waiting for the Doc-

(Testimony of Isaiah Bray.)

tor to come from the schooner.

Q. And that was somewhere in the neighborhood of seven or eight o'clock? A. Yes.

Q. The "Huki Huki" was then outside of the harbor? A. Pretty sure of that.

Q. She hadn't yet gone over to the "Celtic Chief"?

A. She was on her way when we first observed her.

Q. You left the Quarantine Wharf at what time that morning? A. Six-thirty.

Q. With reference to that time, how long was it after that that you saw the "Huki Huki" for the first time?

A. I can't give definite times. We went out to the "Chiyo Maru." It generally takes about an hour to pass her and from there we went to the schooner.

Q. And it was while you were alongside the schooner that you first saw the "Huki"?

A. I don't know whether we were alongside the schooner or the "Chiyo Maru" or any of them.

Q. Was it immediately after you went out or considerable time after you went out?

A. Quite a little time.

Q. About how long does it take to go from the end of the harbor here out to where the "Celtic Chief" lay, in a steam launch such as the Quarantine Launch. A. About twenty minutes.

Q. Would the "Huki Huki" make that in as short a time? A. Yes.

Q. If, as a matter of fact, Captain, the "Huki Huki" appeared alongside the "Celtic Chief" about six-thirty [1111—267] that morning, then it was not that vessel you are talking about?

(Testimony of Isaiah Bray.)

Mr. MAGOON.—I object to that; that is not a fair question.

The COURT.—I'll allow the question in my discretion.

Mr. OLSON.—Answer the question, Captain.

A. What was the question?

Q. If, as a matter of fact, the "Huki Huki" first appeared at the side of the "Celtic Chief" about six-thirty o'clock that morning, then your testimony must be with reference to some other vessel than the "Celtic Chief"? A. No.

Q. Are you prepared to testify that the "Huki Huki" was not out there at six-thirty that morning?

A. I don't think she was.

Q. Do you know that she was not there?

A. I couldn't say that she was not.

Q. You testified that you saw her coming toward the "Celtic Chief" after you were out of the harbor, and you left the Quarantine Wharf at six-thirty and it takes you twenty minutes to go out there, then she couldn't have been there at six-thirty? A. No.

Q. Then either your testimony is erroneous that the "Huki Huki" was not there at six-thirty that morning or somebody else's testimony that she was there is erroneous.

Mr. MAGOON.—I object to that.

The COURT.—Objection is sustained.

Mr. OLSON.—I note an exception to that.

Q. Now, Captain, there were no other vessels over there when you got your launch alongside of the "Celtic Chief" [1112—268] except the "Huki Huki"; is that right?

(Testimony of Isaiah Bray.)

A. Not if I remember correctly.

Q. Well, don't you remember?

A. I think she was the first one.

Q. Well, was she the only one that was there while you were there, when you got there?

A. When I got there?

Q. Yes, alongside the "Celtic Chief."

A. Well, I couldn't say.

Q. You couldn't say? A. No.

Q. You don't know?

A. I don't remember of any other.

Q. Is your memory just as defective with reference to the other matters you have testified to in response to other questions you have answered to Mr. Magoon?

Mr. MAGOON.—I object to this; there is no testimony to the effect that the Captain's memory is defective.

The COURT.—I allow the question.

Mr. OLSON.—Will you answer it?

A. I say I don't remember of any vessel being there at the time that we got there.

Q. Is your memory as hazy as that with reference to the rest of the facts that you have testified about in response to Mr. Magoon's questions?

Mr. MAGOON.—I object to that; there is no testimony that the captain's memory is hazy.

The COURT.—Objection is overruled.

Mr. OLSON.—Answer the question.

A. I'm answering as well as I remember. [1113—269]

Q. And your memory, being wrong with reference

(Testimony of Isaiah Bray.)

to the other facts, would not your—

Mr. MAGOON.—There is no question that his memory is wrong.

Q. Can't you answer the question, Captain?

A. I don't claim that I can tell you exactly from memory all the occurrences of that morning because I don't remember. I can't testify to what I don't remember.

Q. You remember pretty clearly, did you not, a few moments ago, that the "Huki Huki" was the only vessel out there, and you testified that you don't know—

A. The first one?

Q. You said she was the only one there when you first came over. You said the "Huki Huki" was the only vessel there when you came over to the "Celtic Chief" and now you say you don't remember whether that's so or not?

A. I remember that she was the only one. I think there were others coming.

Q. Oh, you think that now?

Mr. MAGOON.—That's not fair, your Honor.

Mr. OLSON.—I withdraw that. Now, then, do you know that there was no other vessel there except the "Huki Huki" when you first came alongside the "Celtic Chief"?

Mr. MAGOON.—I object to the question on the ground it has been asked and answered.

The COURT.—Objection overruled.

A. I am quite positive about it.

Q. And you came there to the "Celtic Chief" between half-past eight or nine o'clock?

(Testimony of Isaiah Bray.)

Mr. MAGOON.—I object to that; it has been asked and answered.

The COURT.—Objection overruled. [1114—270]

A. About that time.

Q. Now, don't you know, as a matter of fact, Captain, that the "Intrepid" was there about half-past seven that morning and was there alongside of her, passing a line over by half-past eight or nine o'clock?

A. I haven't the slightest remembrance of any such thing.

Q. You don't remember as to the "Intrepid" being there? A. No, I don't.

Q. Will you go so far as saying she was not there?

A. No.

Mr. MAGOON.—I object to that.

Q. As a matter of fact, it may be that the "Intrepid" was there?

A. I don't remember that she was.

Q. I'm not asking you whether you remember. I'm asking you whether or not she might be there as far as you remember.

Mr. MAGOON.—I object to it; he's answered.

The COURT.—The objection is overruled.

A. I don't remember now anything about the "Intrepid."

Q. Is your memory clear enough now so that you can say that the "Intrepid" was not there at that time?

Mr. MAGOON.—I object to it; it has been answered.

The COURT.—Objection overruled.

Mr. OLSON.—Answer the question, Captain.

(Testimony of Isaiah Bray.)

A. I say I don't remember.

Q. Then your memory is not clear enough to admit of your testifying that she was not there at that time; is that correct? A. Yes. [1115—271]

Q. She might have been there and she might not have been there, as far as your memory is concerned?

A. As far as my memory is concerned. I was there on other business.

Q. Were there any other vessels there besides the "Huki Huki" and the "Intrepid"?

Mr. MAGOON.—I object to that because that interjects into it that the "Intrepid" was there.

Mr. OLSON.—I withdraw the question. Put it this way: Were there vessels there other than the "Huki Huki" and the "Intrepid" when you came alongside the "Celtic Chief"?

A. I don't remember of any other vessels being there when we were there that morning.

Q. How long were you alongside the "Celtic Chief" from the time you first took the doctor there and he came back? A. About twenty minutes.

Q. About twenty minutes?

A. Possibly a little longer because the captain was busy. Usually takes about twenty minutes to give them pratique.

Q. Would you say it was about half-past nine or ten o'clock when you left there?

A. No, I don't think it was so late as that.

Q. What time was it?

A. I don't know what time it was.

Q. About what time?

A. Might have been somewhere after eight

(Testimony of Isaiah Bray.)

o'clock; between eight and nine.

Q. That you left there? A. Yes.

Q. How do you make that coincide, then, with your testimony that it was about an hour or an hour and a half after you left the other ships that you arrived at the "Celtic Chief"?

A. I am not pretending to give you any definite times. [1116—272]

Q. When you said an hour or hour and a half, you didn't mean it?

A. I meant as near as I could judge.

Q. It must have been somewhere in the neighborhood of half-past nine? A. Maybe so.

Q. How long did it take you to get through with the "Chiyo Maru"? A. About an hour.

Q. How long did it take you to come over from there until you left the schooner?

A. About half an hour.

Q. How long was it from the time you left the wharf until you got aboard the "Chiyo Maru"?

A. Probably about twenty minutes.

Q. That would bring it about eight o'clock that you left and it would bring it about half-past eight o'clock that you left the schooner, would it not?

A. Yes, somewhere in that neighborhood.

Q. It would be somewhere in the neighborhood of eight-twenty or half-past eight?

A. Somewhere about there.

Q. How long would it take to go from there over to the "Celtic Chief"?

A. Fifteen or twenty minutes.

Q. It would be about a quarter to nine that you

(Testimony of Isaiah Bray.)

came alongside the "Celtic Chief"? A. Probably.

Q. You were there, then—by the time you left the "Celtic Chief" it was anywhere from twenty minutes to [1117—273] half an hour later?

A. Probably.

Q. So it would be pretty close to half-past nine?

A. I should think so.

Q. Isn't it the fact that the "Mikahala" and the "Mauna Kea" had already appeared alongside the "Celtic Chief" by the time you left there?

A. Possibly. As I say, I was tending—there was a great deal of excitement and we were having difficulty to get alongside to put the doctor aboard and my attention wasn't particularly with the other vessels; it was with my part of the work.

Q. You mean that you were very excited at the time? A. I don't get excited.

Q. You knew what was going on perfectly well?

A. I did.

Q. You mean to say you don't remember that during the time you were alongside the "Celtic Chief" that there were not at least four vessels there?

Mr. MAGOON.—I object to it; he has answered it.

A. I don't remember.

Q. You don't believe that they were there?

A. I don't say that they were not there; I say I can't state definitely.

Q. Your memory is blank on that point as to whether they were there or not?

A. You might say it in that way.

Q. Don't you think it pretty strange that you don't remember that there were four distinct vessels

(Testimony of Isaiah Bray.)

alongside or about the "Celtic Chief" when you left it?

Mr. MAGOON.—I object to that.

The COURT.—The objection is sustained. [1118—274]

Q. Now, what was that difficulty that you just testified to that you had in getting the doctor aboard the "Celtic Chief"?

A. We were going alongside of a ship that was aground in there and I was looking out for the safety of my launch.

Q. It was a fair morning, I believe you testified?

A. Yes.

Q. Very light swells running? A. Not heavy.

Q. You had already boarded the doctor on the "Chiyo Maru" and that schooner? A. Yes.

Q. Did you have any difficulty getting aboard them? A. Not particularly.

Q. What is the draught of that Quarantine Launch?

Mr. MAGOON.—Object to it as immaterial.

The COURT.—Objection overruled.

A. About four feet and a half.

Q. And what was the depth of the water around the "Celtic Chief"? A. I don't remember.

Q. How much do you think?

A. I presume there were somewhere over fifteen or eighteen feet, I should judge.

Q. Where was the difficulty from the shoal water in boarding the "Celtic Chief"?

A. I was looking out for the difficulty.

Q. What was the difficulty?

(Testimony of Isaiah Bray.)

A. I don't know. I was taking care that I didn't get into it.

Q. Could you see?

A. I could see and that's what I was attending to.

Q. Was there any difficulty in getting the doctor off? A. Yes.

Q. You got aboard safe? [1119—275]

A. I did.

Q. There was no difficulty after you got him on?

A. No.

Q. What was the excitement or difficulty that you testified to here a moment ago? Was there any excitement or were there any difficulties from that time, when the doctor went aboard until you left the "Celtic Chief" again?

A. I presume there was more or less.

Q. No particular difficulty. A. No.

Q. Why don't you remember whether there weren't any other vessels there when you left?

A. I am not trying to remember.

Q. Oh, you are not? A. No.

Q. I'm asking you to try to remember, and I think that the Court will instruct you to try and remember whether or not there were such vessels there.

A. I would not answer that question.

Q. Because you can't remember?

A. I don't remember sufficiently well to state.

Q. Do you remember at all? A. Yes.

Q. What do you remember?

A. I remember tending to my business and doing it.

Q. Do you remember whether there were any other

(Testimony of Isaiah Bray.)

vessels around there besides the "Intrepid" or the "Huki Huki"?

Mr. MAGOON.—I object to the question; it has been asked and answered.

The COURT.—I'll allow it this once.

Mr. OLSON.—Answer the question. Try to remember now.

A. I think I've answered it several times.

Q. And in doing that you were exerting your memory to the utmost? [1120—276]

Mr. MAGOON.—I object to that. Your Honor has said he would allow him to ask that question just once more and you did.

The COURT.—I'll allow the question.

Q. Now, try to remember. Did you or did you not, as well as you can remember.

A. I have tried to remember whether there were vessels there or not as best I can.

Q. And were there such vessels?

Mr. MAGOON.—I object to it because he's answered so many times.

The COURT.—Objection overruled.

A. I said I didn't remember.

Q. You don't know of any.

Mr. WARREN.—Just before adjourning, your Honor, I'd like to bring up a matter. Mr. Kennedy of the Inter-Island Company will be obliged to go to the Coast on Wednesday morning next and he thinks he will be four or five weeks. I'd like to know whether it could be arranged to take his testimony before he goes.

Mr. MAGOON.—We'll be willing to give way,
[1121—277]

[Testimony of J. A. Kennedy, for Libelant.]

Direct examination of J. A. KENNEDY, a witness called on behalf of Inter-Island Steam Navigation Co., and sworn.

Mr. WARREN.—As a matter of record, your Honor, I'd like to have it recorded that counsel will admit the ownership by the Inter-Island Steam Navigation Co., Ltd., of the steamers "Mauna Kea," "Mikahala," "Likelike," "Helene," and "Kili-hani."

Mr. OLSON.—That's admitted.

Mr. WEAVER.—Upon the statement of counsel that he knows it to be a fact, I admit it.

Mr. OLSON.—Counsel for the Inter-Island Steam Navigation Co. have requested that we admit that Mr. Kennedy would testify, if requested so to do, that the "Helene" is worth or was worth at the time of the salvage operations in question, the sum of \$100,000.00. In response to that requestion—and he is competent to testify as to her value. In response to that requestion, on behalf of the claimant, I now admit, for the purposes of this case and for this particular admission, that Mr. Kennedy is competent to testify and that he would testify that the "Helene" was worth a hundred thousand dollars at that time, and that this admission may take the place of the same testimony if it were offered.

Mr. WEAVER.—On behalf of the Miller Salvage Company, I make the same admission.

Mr. WARREN.—Your age, Mr. Kennedy?

(Testimony of J. A. Kennedy.)

A. Age? I was born in 1852.

Q. And residence? A. Residence, Honolulu.

Q. Occupation?

A. I don't know what you'd [1122—278] call it. President of the Inter-Island Steam Navigation Company.

Q. You are President and Manager?

A. President and General Manager.

Q. And have been for how long? A. Since 1902.

Q. Do you know the British ship "Celtic Chief," which was stranded off Honolulu Harbor in December, 1909?

A. I know her by sight. I knew her when she was on the reef.

Q. Did you, on that occasion, have anything to do with that vessel? A. Yes.

Q. When were you first informed that the "Celtic Chief" was ashore?

A. I think it was on the Monday morning just a little after breakfast, just a little before eight o'clock or about eight o'clock sometime. I hadn't yet left my house and I generally leave at eight o'clock.

Q. Do you remember the date?

A. The time the "Celtic Chief" was on? It's so long ago that I would not like to state. It was Monday morning, however, about eight o'clock.

Q. What did you then do?

A. Of course, I immediately came downtown in my machine and went over to the Inter-Island wharf and I think I met Captain Haglund down there and he also told me that they had just reported that a ship was on the reef.

(Testimony of J. A. Kennedy.)

Q. What did you then do?

A. I don't remember exactly if I verified it. As near as I can remember, it was a sort of dusky, foggy kind of morning. You couldn't see very far, but I think the captain verified it, however. [1123—279]

Q. What did you then do?

A. I immediately gave orders for a couple of steamers to get up full steam.

Q. What steamers were those?

A. That was the "Mauna Kea" and the "Mikahala," and the "Iwalani" being ready, I immediately went out. She hadn't exactly full steam. It took perhaps ten or fifteen minutes for her to get under way.

Q. Then what?

A. Then Captain Clarke and I went out in the "Iwalani" to the "Celtic Chief."

Q. Did you go on board?

A. As soon as we went out there, Captain Clarke and I went aboard the "Celtic Chief" and found the captain there in charge of the boat.

Mr. OLSON.—What?

A. The captain had charge of the boat.

Mr. WARREN.—Did you have any conversation with the captain?

A. Yes, sir, we had a conversation; sympathized with him in the condition of his vessel and wanted to find out if he wanted any help, and I told him we had vessels we could put to his assistance and he said all right, he wanted all the help he could get. After a little maneuvering around there and seeing the situation and watching the pounding of the vessel,

(Testimony of J. A. Kennedy.)

we immediately went back again on the "Iwalani" and gave orders for the "Mauna Kea" and the "Mikahala" to go right out.

Q. Describe the pounding of the "Celtic Chief."

A. While I was standing there, once in a while she would give a pound.

Q. How?

A. I should judge it was— [1124—280] sounds—of course, I am not an expert. It is simply by what I would imagine it from the jar that it was about two or three—

Q. What was?

A. She was evidently touching the bottom.

Q. Describe the motion as you felt it.

A. It is a peculiar motion. I don't know that it's easy to describe a pounding of that kind. You can imagine that a vessel keeping on pounding in that way wouldn't last very long, but I've seen them come off without any material damage.

Q. How did she pound?

A. Once in a while as a heavy swell would come up and she went down she would make the pounding and, of course, give a bump not quite so pleasing as an earthquake,—a little more severe shock.

Q. Describe the position of the "Celtic Chief" as you observed her on that occasion as to her position and how far aground.

A. Well, she was on the reef a little on the Ewa side of the harbor.

Q. Ewa side of the harbor? A. Yes.

Q. And about how far on the reef, did you observe?

A. Well, I wouldn't like to say that because I

(Testimony of J. A. Kennedy.)

wouldn't give myself out to be an expert to determine except from the pounding that I thought she was touching two or three on the whole boat somewhere.

Q. What kind of a swell was there?

A. Quite a little swell there on Monday.

Q. About how high a swell, would you say?

A. Some of these experts would give testimony on swell fifty feet. I don't think it was that.

Mr. OLSON.—What was that remark? [1125—281] A. I wouldn't say it was fifty feet.

Q. Did you say someone would say it was?

A. I say some people that don't know anything about swells would imagine that they were great big swells. Judging from the position of the ship I should think about three feet.

Q. With what frequency would these swells come?

A. Sometimes they would come two or three at a time,—that is, one foot; other times there would be a little—it was short and long swell.

Q. What was the direction of the swell with respect to the "Celtic Chief"?

A. Well, as near as I could judge, it was some—let's see, here's the reef (indicating bar of witness-box). I think it must have been striking a little on the starboard quarter.

Q. Running to the starboard quarter?

A. Yes, striking on the starboard quarter; wouldn't be as much as that. I don't know exactly. I may be misunderstood by the starboard quarter. She was striking near astern on the starboard side.

Q. On the Diamond Head or on the other side?

A. No, it was Diamond Head side.

(Testimony of J. A. Kennedy.)

Q. About what time did you arrive at the "Celtic Chief" that morning in the "Iwalani"?

A. Well, I made no note of it, but I should think perhaps about a quarter of nine or somewhere around nine. Between half-past eight or nine o'clock.

Q. And how long did you remain on board, approximately?

A. I don't know, but I should judge half an hour.

Q. And what did you then do? [1126—282]

A. We then came ashore on the "Iwalani" and as soon as I got ashore, of course, I gave orders to those two boats, the "Mauna Kea" and the "Mikahala" to immediately go out there.

Q. And did they go out? A. Yes.

Q. About what time did they leave their wharf?

A. Well, I should judge they must have left somewhere about ten o'clock, at least, if not before. It might have been quarter of ten or it might have been ten o'clock.

Q. Did you go out again to the "Celtic Chief"?

A. Yes, I went out. I think it was the "Mikahala." At least I was aboard the "Mikahala" when she was towing. I stayed there a couple of hours.

Q. You went out with her?

A. I don't just remember. It was her that I was aboard of.

Q. When you went out that first time, were there any other vessels there around the "Celtic Chief"?

A. Yes, the "Intrepid" was there.

Q. What did you observe in respect—

A. And there was one of Young's boats, launches were there.

(Testimony of J. A. Kennedy.)

Q. The "Huki Huki"?

A. I couldn't tell the name but there was a launch there.

Q. That's when you went out on the "Iwalani"?

A. Yes.

Q. And what did you observe with respect to the "Intrepid," at that time? A. She was towing.

Q. What was the condition of her line?

A. It was taut; that is, she was pulling all right.

Q. In what direction?

A. Well, she was pulling in the direction just about the same position she had [1127—283] pretty much all the time she was there. She was pulling on the stern of the boat.

Q. Starboard quarter?

A. It was between that and directly astern; somewhere around there.

Q. Now, when you went out on the "Mikahala," will you describe the operations that you saw at that time. What was done?

A. Oh, well, simply hitched on to her on the starboard side of the "Celtic Chief" and the "Mauna Kea" was right astern, but the "Mikahala" was more, as it were, on the starboard side of the center of the boat, that is, of the "Mauna Kea."

Q. What kind of—do you know the size line used by the "Mikahala"?

A. I wouldn't be positive of that. I think it was an eight-inch line.

Q. How many lines did the "Mikahala" have?

A. Two lines.

Q. And the "Mauna Kea's" line?

(Testimony of J. A. Kennedy.)

A. I think the "Mauna Kea's" line was a twelve-inch line. I think it was a twelve-inch line. I wouldn't be positive.

Q. What kind of hawsers were used?

A. New hawsers.

Q. Manilla? A. Yes, manilla.

Q. All of them? A. All manilla.

Q. What took place during the time you were out there on the "Mikahala" your second trip when you went out on the "Mikahala" and these two boats were pulling. Describe what took place during that time. What did you observe in connection with the pulling?
[1128—284]

A. I am sorry to say I didn't observe her coming off.

Mr. OLSON.—You what?

A. I didn't observe her coming off. Both of them kept pulling there, straining and pulling all they could, but didn't seem to make any effort.

Q. How long did you remain there that day?

A. I must have remained there a couple of hours aboard of her.

Q. And how did you leave?

A. How did I leave?

Q. Yes.

A. I must have come in on the launch because I left them there. We came in to town.

Q. Then did you go out again on Monday?

A. I think I was out again in the afternoon.

Q. Did you observe any change of conditions?

A. No.

Q. Any other vessels there Monday afternoon?

(Testimony of J. A. Kennedy.)

A. I think there were. I don't remember whether they were there. I think they were there before I got out. There was a schooner and a barge alongside of her. Whether it was at that time or later on I wouldn't just be sure now.

Q. What were they doing?

A. Well, I don't know if they started on them at that time or they started later on. They were taking the fertilizer off the boat.

Q. Who was doing that?

A. I presumed it was Captain Miller because they were under his charge and in his vessel and I presume they were working for him.

Q. Now, on Tuesday, did you go out on Tuesday?

A. I went out on—yes, I went out on Tuesday, before noon. [1129—285]

Q. What was the occasion of your going out then?

A. Well, we were taking out a lot of stevedores to help in getting the fertilizer out.

Q. What did you do?

A. I got a lighter and went out there.

Q. Out on what vessel?

A. It was the—I think it was one of Young Brothers' launches. I went out there taking the men out so as to get them started to get more fertilizer out so as to lighten her a little more.

Q. Did you observe any change in conditions on Tuesday morning?

A. No, they were just about the same.

Q. Any difference in the swell?

A. Well, I think, although it's only from my own optical—might be a *dillusion*, but I think it was be-

(Testimony of J. A. Kennedy.)

ginning to moderate a little. That's my impression.

Q. Any change in the wind? What was the wind.

A. I'm blowed if I know.

Q. Such as there was in what direction do you think it was coming?

A. If there was any wind at all, I don't believe there was any wind at all. If there was any wind at all it would surely be coming from the south.

Q. Describe the weather generally.

A. It was this kind of hazy weather that you can't describe. There was evidently—I don't believe there was trade winds blowing or it wouldn't have been that kind of weather. If there was any wind at all it was so little that it made no impression on me what direction it was blowing.

Q. When you went out on Tuesday morning, what operations—let's see. Going back to Monday afternoon, in connection [1130—286] with the unloading of fertilizer from the ship into Miller's vessels, did you observe those operations? A. Yes.

Q. Did you observe the manner in which the cargo was being taken out of the ship? A. Yes.

Q. How was that being done?

A. Well, men were getting it out of the hold and sliding it down to the vessels.

Q. Now, when you went out on Tuesday were they any lightering operations going on then? Tuesday morning? A. I don't think so.

Q. What arrangement were made between the Inter-Island and the ship as to lightering?

A. Oh, I don't know. Captain Haglund was then in authority of the operations on board the ship.

(Testimony of J. A. Kennedy.)

The stevedores were taken out for the purpose of handling the fertilizer.

Q. You were taking the stevedores out?

A. Yes. We sent a lot of stevedores out on Tuesday morning when I went aboard.

Q. Did you go out again on Tuesday?

A. This was Tuesday morning. Yes, I went out again in the afternoon. In the meantime when I was out there the work was so slow, that is, apparently so, that we thought it advisable, the captain, that is he thought we'd better see if we couldn't get somebody else to help out.

Q. Who thought? A. Captain Haglund.

Q. What did you do?

A. I thought we'd better wait a little longer to see what they could do. When I came back to town I went to McCabe, Hamilton & Renny to [1131—287] find out if we could get their floating hoisting engine. That is a barge with a hoisting engine.

Q. Any arrangement made with respect to it?

A. I made a temporary arrangement subject to immediate call and I made an arrangement to take it out and I looked around for a launch and couldn't get a launch, so I had to get a Japanese sampan to take me out.

Q. Out to the ship? A. Out to the ship.

Q. What did you do out there?

A. I saw what the situation was. They were using the engine, that is, the ship's hoisting engine, simply for pulling in lines and the men we had taken out there was sitting like bumps on a log and not doing a thing in the discharging of the vessel. Seeing the

(Testimony of J. A. Kennedy.)

situation I asked the captain about it, whether it wouldn't be better to get this thing out and he said all right get it out.

Mr. WEAVER.—Q. Captain Henry or Captain Haglund?

A. The captain of the vessel, I mean.

Mr. WARREN.—The ship?

A. Yes, captain of the "Celtic Chief."

Q. Did you observe the ship's winch on that occasion?

A. Not particularly, only it looked to me as if they weren't getting up steam enough. There was something wrong with the winch because they weren't hoisting the fertilizer quick enough to satisfy me. Then again I saw they were pulling in cables from the vessel.

Q. In the use of the winch for hauling fertilizer, will you describe what you saw in that respect? You saw the winch being used.

A. Well, it wasn't taking out the quantity it should. I don't know whether they had steam enough or what was the [1132—288] trouble; they didn't seem to be able to get enough steam.

Q. Do you know how many bags of fertilizer there were in a sling?

A. Simply by casual observation I should think three or four bags. You see they were pretty good bags.

Q. Do you know how much they weighed?

A. I think two hundred pounds and some two hundred and fifty; that is, there were some bags that were heavier than others, as near as I can remember.

(Testimony of J. A. Kennedy.)

Q. How long did you remain there on that occasion, Tuesday afternoon, when you went out on the sampan?

A. Well, I don't know. Perhaps an hour; three-quarters of an hour or an hour.

Q. And was there any difference in conditions as you had observed them there before with respect to the vessels?

A. Except that the vessel lightening up she was coming out of the water, she was rising more up in the water.

Q. Any different condition of the swell?

A. I don't think it was as bad. I think it was improving.

Q. Now, when you returned what did you do? When you got back on that vessel what did you do?

A. This was the last time I was there you mean?

Q. When you went out in the sampan?

A. Oh, yes. There was nothing further to do.

Q. When you got back to shore again. I'll withdraw that. A. That is—

Q. What was done with the barge and donkey-hoist? A. Well, that was sent right out.

Q. Sent out when?

A. In the afternoon after I came back with the Japanese sampan.

Q. Did you go out on Wednesday? [1133—239]

A. Wednesday?

Q. The third day. Well, I'll ask you, you were out there—were you out at the "Celtic Chief" at any time when the "Arcona" was in the vicinity?

A. Oh.

(Testimony of J. A. Kennedy.)

Q. About what time of day did you go out then?

A. Went there before noon.

Q. How long did you remain there then, approximately.

A. You know, I wouldn't, I'd like to refresh my memory up there, whether this hoisting engine went out on Tuesday or Wednesday.

Q. Say Wednesday, the night when she came off, on Thursday morning; Wednesday night that she came off. What was it, on Tuesday or Wednesday that the barge went out?

A. It was that afternoon that she came off. I haven't nothing to refresh my memory about it.

Q. But you were out there the day when the "Arcona" was in the vicinity? A. Yes.

Q. Now, what did you observe being done by the "Arcona," if anything, that day?

A. Well, she took the place of the "Intrepid."

Q. And?

A. I think they were trying to get the lines out there to the boat.

Q. From what vessel?

A. From the "Arcona" to the "Celtic Chief."

Q. Did you see the "Arcona"? A. The which?

Q. Did you see the "Arcona" connected with the "Celtic Chief" at any time?

A. Well, that was that afternoon that we took the barge out. I don't know, I presumed, though, that they got there. I wasn't watching closely to see, but I [1134—290] knew they were hauling the lines in from the "Arcona."

Q. Well, what did you observe about them pulling

(Testimony of J. A. Kennedy.)

the lines in from the "Arcona"? How was that being done?

A. It was being done from the "Celtic Chief."

Q. In what way?

A. I don't know whether it was a cable or a rope that they were hauling it in with, but they were hauling it in some way or other, at least, that was my impression. I wasn't bothered about that. The thing was to get the fertilizer out. That was my main object in being out there.

Q. Many Inter-Island boats were out there at that time? A. At this time Wednesday afternoon?

Q. Wednesday afternoon?

A. There was the "Mikahala," the "Helene," and the "Likelike."

Q. Now, you say they were trying to get a line on from the "Arcona" to the "Celtic Chief." Did they get it on?

A. Whether they got the original lines on I don't know, but they certainly got the cables aboard, that is, some lines aboard. I don't know whether it was the original cable or whether it was some other.

Q. Did you see them connecting a cable on yourself?

A. No, I didn't see them putting it aboard, but I saw it after it was on.

Q. Now, did you make any observations with respect to the "Celtic Chief," to any change of position of the "Celtic Chief" from the time she went on until Wednesday night?

A. Well, I might state this, although I don't think I've ever mentioned it to anybody myself, that up

(Testimony of J. A. Kennedy.)

in my house, which I don't know how far it is distant, I got a French glass there and I put it in a certain position in an attic window to observe the ship, and in our coal plant there is a V-shaped tower and I could see right from the [1135—291] center of that tower the position of the ship, and from the Monday night to the Tuesday morning she went in further about thirty-six to forty feet; either she went in or she swung around, I don't know which way, but the position from there to my house was changed.

Q. In what direction?

A. It was either going in or swinging around; whichever it was, I don't know.

Q. You mean by coming in a motion towards shore? A. Yes.

Q. It was between Monday night and Tuesday morning? A. Yes.

Q. About what time did you make it in the morning?

A. I made it in the morning at eight o'clock. No, before eight. It was when I went to make my observation.

Q. Did you make an observation on Tuesday?

A. I made an observation on Tuesday.

Q. And did you observe a change in the position of the ship? A. There was a little change.

Q. About how much?

A. There was a change which I measured afterwards and it was in the neighborhood of five or six feet.

Q. And that was between Tuesday morning and

(Testimony of J. A. Kennedy.)

Tuesday night? A. Yes.

Q. And in what direction was that movement?

A. So far as my observation went, going through the center tower of our coal plant, it was the same direction.

Q. Did you make an observation on Wednesday morning? [1136—292]

A. I made an observation on Wednesday morning but it was practically about the same. There was very little change there. I made, also, an observation at night, on Wednesday afternoon again when I went home. It was practically the same.

Q. Now, did you go out to the "Celtic Chief" more than once on Wednesday?

A. Yes; went out again at night.

Q. What time did you go out?

A. About half—no, it must have been at nine o'clock, because we left the house at half-past eight and we had to wait down to the landing for someone that was late.

Q. In what vessel did you go?

A. We went on the "Mikahala."

Q. And then what did you do?

A. Well, we stayed around a little and talked and took in the situation and then we went and laid down.

Q. At the time you got out there that night, what vessels were pulling on the "Celtic Chief"?

A. When we went out there at that time they were all pulling.

Q. Now, what vessels were there?

A. Well, the "Likelike," the "Helene," and the

(Testimony of J. A. Kennedy.)

“Mikahala,” but I don’t think they were going full speed, but they were keeping their lines out.

Q. That was about what hour?

A. Somewhere around nine o’clock, maybe quarter past nine. We notice the cable of the “Arcona.” We could notice it playing up and down in the water.

Q. You use the word “we,” you speak of yourself?

A. Well, myself.

Q. What was the condition of the “Arcona’s” line? [1137—293]

A. It was flapping on the top of the water. We could distinguish it from the ship coming down as if there was some little tautness on it, at that time.

Q. You say, then you laid down to sleep?

A. Yes.

Q. How long was it when you laid down that you got up?

A. I should judge when they first called me to get up, I think it was about eleven o’clock.

Q. And what did you observe then?

A. Well, I looked around and sized up the situation. They were all evidently pulling hard then because their lines were very much tauter.

Q. What vessels were pulling?

A. The “Likelike” and the “Helene” and the “Mikahala.”

Q. And the “Arcona”?

A. No, the “Arcona’s” lines seems to go down and that was evident to my mind. It may be an optical illusion but it was how it struck me.

Q. Describe as particularly as you can the condi-

(Testimony of J. A. Kennedy.)

tion of the "Arcona's" line at that time.

A. The "Arcona's" line from the starboard side of the "Celtic Chief" seemed to go right down to the water.

Q. Well, how far do you think it ran out until it touched the water?

A. I wasn't close enough to measure it by the number of feet. Evidently the cable there had a slackening up somewhere or other and the cable had gone in the water in the distance between, and it was level with the natural slope up to the side of the ship, but it was plainly seen that they weren't pulling.

Q. Did you observe the water around the stern of the [1138—294] "Arcona"?

A. As dead as a door nail.

Q. How could you observe it?

A. In the position of the "Mikahala" she was just lying at the stern of the ship.

Q. In the stern of the "Arcona"?

A. In the stern of the "Arcona" on the side.

Q. About how far was the "Mikahala" from the "Arcona" approximately?

A. Perhaps two hundred feet. Might not be as much as that, might be a little more. Distances are so deceptive on the water unless you get a chance to pace it off.

Q. Were there any lights in evidence?

A. Oh, yes; the search-light of the "Arcona" was put on the stern of the "Celtic Chief."

Q. That was eleven o'clock?

A. Well, it was around there. At least, if that

(Testimony of J. A. Kennedy.)

was the time that I got up; but as I didn't make any notes of these things, it's simply memory that I've got to go by and it might be a little later. It might be a little earlier.

Q. What can you say as to the speed of the "Mikahala" at about eleven o'clock that night?

Mr. OLSON.—I object unless the witness is qualified to answer.

A. I only know from the records that they were going full speed.

Mr. OLSON.—I move that it be stricken.

Mr. WARREN.—No objection.

The COURT.—Motion granted.

Q. From your observation of the water at the stern of the "Mikahala"—I'll ask you, first, did you observe the condition [1139—295] of the water at the stern of the "Arcona"?

A. Yes, because we were standing over the stern at the time.

Q. What was the condition of the water there?

A. Stirring things up pretty lively.

Q. What was the condition of the lines from the "Mikahala" to the "Celtic Chief"? A. Taut.

Q. Touching the water?

A. Oh, once in a while they would go down, yes, but generally the lines were taut.

Q. Could you see the lines of the "Likelike" and the "Helene"?

A. No, except from the stern of the ship where the reflection was, we could see it was going out but we couldn't trace that right to the "Celtic Chief."

Q. You could see up to the "Celtic Chief" but not

(Testimony of J. A. Kennedy.)

to the steamers?

A. I couldn't trace it in the distance because the electric light was turned to the stern of the boat.

Q. How long did these conditions continue?

A. Until the time she began to come off.

Q. About what time do you think she began to come off? When did you observe any motion of the "Celtic Chief"?

A. I couldn't tell you the minute because so far as I was concerned I was too anxious about other things to pull out my watch and make a note, but it must have been somewhere, according to the condition of things, in the neighborhood of twelve o'clock.

Q. I understand you to say you got up again about eleven? A. Yes.

Q. About how long do you think it was before you observed any change in the position of the "Celtic Chief" at all? [1140—296]

A. I couldn't say, so far as the time was concerned, when I believe she had been moving around a little, but I observed her make quite a little jump quite a little distance and believe she evidently stopped of some little time.

Q. And how long do you think she remained stopped?

A. Well, I should judge somewhere—sometimes when you are anxious for a thing it seems long. Judging from the condition of things it seems long. You see, it's a long time and I've never—I threw the thing from out of my mind as it were except those things that impressed me most.

Q. What means had you for observing the entire

(Testimony of J. A. Kennedy.)

motion of the "Celtic Chief"?

A. Well, all of a sudden we saw her come away, come away quite a distance.

Q. Saw what?

A. Saw her come; that is, felt the towing and heard the shouting.

Q. Did you have any marks on shore or otherwise?

A. Not at that particular time, but I had after that.

Q. How could you determine then that it was pulling.

A. Because it was so plain that you didn't need marks particularly. I believe that she moved a little before that, or had been moving a little, but it was so gradual that I, not having a mark at that time, didn't observe it.

Q. After that interval and during which you say she stuck or stopped, then what did you observe?

A. Then she started again and come right off, out.

Q. About what time do you think that was?

A. It may have been twelve o'clock; a little before or little after. I wouldn't be positive about the time. [1141—297]

Q. When you got up at eleven o'clock, after that now, did you observe conditions on board the "Arcona"?

A. They were very quiet. There didn't seem to be any stirring at all.

Q. Were there any lights?

A. There was mighty few lights.

Q. Could you hear anything?

A. I saw one or two men parading back and forth

(Testimony of J. A. Kennedy.)

on the ship. It was—so far as appearance goes, from the position I had, it was evidently lifeless.

Q. Now, when you observed she was moving, the "Celtic Chief" was moving, and you observed her up to the time she stopped, or seemed to stop, now what was, what were conditions on board the "Arcona" at that time?

A. The "Arcona" evidently wasn't moving.

Q. Did you observe the "Arcona"?

A. Yes, of course. We were watching her.

Q. What was the condition of her line?

A. Lines? We couldn't see them except they were hanging down the side of the ship.

Q. Hanging down the side?

A. The side of the "Celtic Chief."

Q. Did you see them at the "Arcona"?

A. The line wasn't taut at all. It was down in the water. At least, it was either there or it was parted. I don't know which.

Q. About what angle do you think the line formed in passing from the water to the "Celtic Chief," the "Arcona" line, as nearly as you can give it?

A. I would like to try it out first and see, but I don't know.

Q. You say it was hanging in the water? [1142—298]

A. I don't believe in the water the line was more than teen feet from the vessel. I may be wrong about that, but that's my *manao* just now, but judging from the distance and what experience I have of observing things, that would be the idea I would have. It might be more; it might be less.

(Testimony of J. A. Kennedy.)

Q. Did you observe any signals of any kind on board the "Celtic Chief"?

A. I observed the fireworks.

Q. What was the fireworks that you saw?

A. That is, as I understood, the shot of a pistol with something luminous which were made for the "Arcona's" benefit.

Q. When were those fired with respect to time. How near to the time she came off?

A. I don't know. I think it, I recall she was in the water by that time; that is, she had come off the reef by that time. That is my impression now.

The COURT.—Is that as near as you can remember?

A. That is about as near as I can give it to you without my memory being refreshed from some other source.

Q. Now, how did the "Celtic Chief" come off, rapidly or slowly, or how?

A. Oh, well, as I say, the first move observable by me was a certain distance, how long it was I couldn't tell; perhaps half the length of the ship, then she seemed to stop.

Q. How long do you think that she took to go that distance?

A. Oh, she made that distance at once. That is, it didn't take very long to move that distance.

Q. Would it be one minute or fifteen minutes?
[1143—299]

A. It wouldn't be fifteen minutes. Whether it was one, two, or three minutes, it was certainly less than five minutes.

(Testimony of J. A. Kennedy.)

Q. Before she stopped?

A. Before she came to that position, and perhaps remained fifteen minutes.

Q. Then when she started again and before she came off— A. There was no stop.

Q. What direction did she move?

A. She came down towards the "Arcona."

Q. And how close did she approach to the "Arcona"?

A. I don't know; it's a distance that's hard to tell. I know this, that one of the fellows sung out to me to sing out to the "Arcona" people to get out of the way.

Q. As near as you could observe, when the "Celtic Chief" came off how close did she approach to the "Arcona"? What was the closest she came to the "Arcona"?

A. From the place that I was in the stern of the "Mikahala" by this time we had rounded a little, and it appeared to me—I may be mistaken—it appeared to me as if the stern of the "Celtic Chief" was almost overlapping the stern of the "Arcona," but that might have been from the new position that we had taken up.

Q. Now, what was this new position of the "Mikahala"?

A. We went in towards the land to keep the "Celtic Chief" off the "Arcona."

Q. What direction did the "Mikahala" pull?

A. Well, she turned around, went in towards the reef so as to keep the "Arcona," so as to keep the "Celtic Chief" off the "Arcona," and so far as our

(Testimony of J. A. Kennedy.)

observation from the stern of the "Mikahala" is concerned, it might be forty feet, it might have been fifty feet, and if it were actually measured, it might have been sixty feet, but it was so [1144—300] close that I thought she would go on top of the "Arcona" and ram her.

Q. How close did she approach the "Arcona" before the "Mikahala" began to swing out?

A. We began swinging off as soon as she was in deep water. She began to, she pulled out there for a little while and then began to swing around so as—I presume it was to keep her in.

Q. Now, there was—withdraw that. Describe the further motion of the "Celtic Chief" after she was pulled aside by the "Mikahala."

A. Well, by this time, then, when she pulled thoroughly around the "Arcona" people got a move on.

Q. And then what?

A. And then got away and then they towed her.

Q. The "Arcona" towed her out?

A. Towed her out somewhere wherever the programme was. I don't know what the programme was for handling her.

Q. What was done with the lines of the "Mikahala"? What was done to the lines of the "Mikahala"?

A. I believe one of them was cut on board of the ship.

Q. One of them cut aboard the ship?

A. Aboard the "Celtic Chief."

Q. And what became of the other?

A. The other, we pulled her.

(Testimony of J. A. Kennedy.)

Q. And then when was that second one cut. When did you cut the second one?

A. I suppose that was when the "Arcona" took her in tow.

Mr. WARREN.—Cross-examine. [1145—301]

Cross-examination of J. A. KENNEDY on Behalf of Libellee.

Mr. OLSON.—Q. What time did the "Mikahala" and the "Mauna Kea" arrive at the scene of the stranding on Monday?

A. I presume it must have been somewhere about a quarter past, or half-past, ten.

Q. Quarter past or half-past ten?

A. Somewhere around thereabouts.

Q. And the "Iwalani" arrived there at what time?

A. The "Iwalani" wasn't pulling.

Q. You went out on the "Iwalani."

A. I simply went out on the "Iwalani" because she was the handiest boat.

Q. Did the "Iwalani" go back there, or did you go back on the tug? A. On the tug.

Q. The "Intrepid" was already pulling when you came out with the "Iwalani"? A. Yes.

Q. That was about what time?

A. That must have been about half-past eight somewhere or maybe quarter to nine.

Q. It wasn't, however, about nine o'clock?

A. I couldn't tell. I made no memorandum of it, only judging from the time I got downtown in the morning and getting them ready to go out, I say it was somewhere around thereabouts. It might have

(Testimony of J. A. Kennedy.)

been nine o'clock, I would not swear it wasn't.

Q. It was somewhere between half-past eight and nine o'clock.

A. Somewhere around there.

Q. And the Young Brothers had a launch there?

A. There was a launch there, as near as I can remember. I think it was the Young Brothers'.

[1146—302]

Q. And you went on the "Iwalani." How long did it take you to get out there?

A. I should think somewhere about half an hour.

Q. It would be somewhere about half an hour?

A. Yes.

Q. Did you observe the quarantine launch coming along? A. No, I did not.

Q. Don't you know Captain Bray?

A. I know him very well, yes.

Q. You didn't see Captain Bray at any time on Monday? A. I didn't see him.

Q. Were you out there when the "Mauna Kea" and the "Mikahala" arrived?

A. I think I went out with the "Mikahala."

Q. They too put lines on board? A. Yes.

Q. About what time?

A. As soon as we got out there.

Q. About how long did it take to get out?

A. It took us some little while.

Q. Possible be somewhere about eleven o'clock before they were actually in shape for pulling?

A. I think it was eleven o'clock, yes.

Q. The "Mauna Kea" line was a twelve-inch hawser?

(Testimony of J. A. Kennedy.)

A. I don't think it would be any less.

Q. Can you state approximately how far the "Mauna Kea" lay from the "Celtic Chief" after she had attached her line?

A. They were all out about the same distance. The "Mikahala," "Mauna Kea," and "Helene," and all of them had the same length of line. It was about the size of their lines with the exception of tying it at both ends.

Q. That would be about nine hundred or a thousand feet?

A. I wouldn't guess it to be as far as that because [1147—303] there is the making fast of the lines at both ends.

Q. Those lines are approximately nine hundred or a thousand feet?

A. We have never measured them, but from appearances, I don't think the ships would be that length, although it might be.

Q. Certainly would be from six to seven hundred?

A. I should judge so.

Q. Might be eight to nine hundred feet?

A. It might be.

Q. That is approximately anywhere from six to nine hundred feet? A. Well, I should think so.

Q. And these various vessels maintained this same distance from the time that they attached until they had their lines parted? Did you observe the "Mauna Kea" when she parted her line, broke it?

A. No.

Q. You were there? A. I was not there.

Q. Now, on Wednesday night when you came out

(Testimony of J. A. Kennedy.)

there about nine o'clock you went on board the "Mikahala," did you? A. Yes.

Q. And at that time you say the boats were not pulling full speed apparently?

A. Well, that is the "Mikahala" wasn't pulling full speed.

Q. You couldn't see the others?

A. Of course, I couldn't see the others.

Q. You couldn't tell from the condition of their lines either?

A. Because I couldn't see them at that time at all.

Q. You couldn't distinguish them? [1148—304]

A. No.

Q. And at eleven o'clock you say that you got up after you had taken your nap and again you observed these lines and you again saw—well, you saw that there had been a change in the condition of the line of the "Mikahala"; was that it was more taut?

A. Yes.

Q. And you observed that she was turning more, apparently at a greater speed than she had had before you had taken your nap? A. Yes.

Q. But you couldn't observe how fast the other vessels were going? A. No.

Q. What were the other two boats?

A. The "Helene" and the "Likelike."

Q. You couldn't tell whether they were pulling hard or not?

A. No, because they were way on the other side of the "Arcona."

Q. You couldn't see their lines?

A. I could see them when the electric light was

(Testimony of J. A. Kennedy.)

turned on but I couldn't fully see them as far as the ship was concerned.

Q. You couldn't tell whether they were pulling hard?

A. I couldn't tell whether they were pulling full speed.

Q. The "Arcona's" line was lying down in the water?

A. No, not the first time, but after eleven o'clock, yes.

Q. Who else was with you on board the "Mikahala" making these observations?

A. There was Abe Lewis, Jr., J. M. Dowsett, and myself.

Q. And yourself? A. And myself.

Q. They all made these observations?

A. I don't know. [1149—305]

Q. They were there? A. They were there.

Q. Did you comment on the fact that the "Arcona" was not pulling? A. They were all doing that.

Q. You could tell, could you, from the appearance of the water about the stern of the "Arcona" that she was not turning her propeller?

A. You could see that.

Q. Perfectly evident?

A. It was evident that there was absolutely no stir in the water.

Q. And it couldn't have been pulling by that hawser?

A. If she was pulling it wasn't manifested in the tautening of the cable.

Q. But, in your opinion, she was not pulling be-

(Testimony of J. A. Kennedy.)

cause she was not turning her propeller also?

A. No. There is other ways of pulling a ship besides turning over her wheel.

Q. You don't know whether or not the "Arcona" used her propeller for the purpose of pulling on the "Celtic Chief"? A. It wasn't observable.

Q. Even when you first came out?

A. It was not observable.

Q. There was some strain on her line?

A. At that time there was a little burden.

Q. How do you account for the fact?

A. Because it might have been the position she was placed in.

Q. Had she changed her position?

A. Until the ship was on top of her so far as observation goes.

Q. She might have, but she attempted to do so, exerted a strain on her lines by means of heaving in on her anchor?

A. She could do it, but the lines so far as observation from the "Mikahala" didn't show that she was doing so. [1150—306]

Q. She could have done so?

A. She could have done so.

Q. And might have exerted a strain by means of her anchor? A. If she was doing that—

Q. Do you think she could have?

A. I don't think so, because they—

Q. In other words, her lines were so slack that they were practically useless?

A. You can't say that. You take a half-inch line; it would be some use, but a twelve-inch—

(Testimony of J. A. Kennedy.)

Q. You think a twelve-inch would be better than her line? A. I should think so.

Q. Even though they were steel hawsers?

A. Yes.

Q. Do you know how large they were?

A. Three or four-inch, four-inch.

Q. How many lines did she have attached?

A. I think two lines.

Q. And you state as your opinion that two steel hawsers, three or four inches each, would be less strong than one twelve-inch manilla hawser?

A. I don't say that.

Q. What did you mean by saying—

A. It depends whether they were pulling at the same time.

Q. Do you think that she did not?

A. I don't know how.

Q. As a matter of fact, you don't know whether or not she had sufficient strain on the lines?

A. That would depend on what kind of cables.

Q. If they were the steel cables that you have just testified to that you say would be as strong as a twelve-inch hawser, and if she did exert a pull, she [1151—307] exerted as much power as any vessel with a twelve-inch hawser?

A. It might, but I'd like to look up and see if they both were pulling the same.

Q. What I am getting at is that testimony that she didn't have lines sufficiently strong. Are you prepared to say whether they were or not?

A. I believe that the one she had up on the mainmast. They turned her engine and busted it.

(Testimony of J. A. Kennedy.)

Q. Do you know how she broke it?

A. I suppose the cable wasn't strong enough.

Q. Do you know what power she exerted on that line? A. No, I don't.

Q. Do you know whether or not she exerted a pull on that line with her propeller?

A. I believe it was by means of her propeller.

Q. Do you know that it was?

A. I don't know it was.

Q. If the fact was that she did not do it by means of her propeller, but by means of heaving in on her anchor-chain, do you still say that you don't believe that line is a proper one?

Mr. WARREN.—I don't believe it appears anywhere that the line was broken.

The COURT.—Objection overruled.

Mr. OLSON.—Answer the question. Withdraw the question. If, as a matter of fact, the "Arcona," at the time that she broke this line that you have just spoken of, was heaving in on her anchor-chain, was not pulling by means of her propeller, will you still say that you don't think that that line was a strong line?

A. The one that broke? [1152—308]

Q. Yes. A. If it had been a new line—

Q. Do you think it is impossible to break a line by means of pulling on it?

A. You can break anything.

Q. Don't you know it to be a matter of fact that the "Mauna Kea" broke her twelve-inch hawser?

A. I believe she did.

Q. What was the power of the "Mauna Kea"?

(Testimony of J. A. Kennedy.)

A. The "Mauna Kea"? Between 400 horse-power to it.

Q. Now, do you know how that line broke, whether it was by a jerk or some other way?

A. I know that no careful person will put on full speed ahead in testing the wire.

Q. I want a response to my question, which is, assuming the fact to be that she used, that she pulled by heaving in on her anchor, do you still maintain that this line was not a strong line?

A. Evidently it wasn't, or it would not have broken.

Q. Why do you say the line must have been a poor one?

A. Because there is no chief engineer or no commanding officer that would steam up on a line full speed.

Q. Did you see the "Arcona's" line broken?

A. No.

Q. You don't know whether it was broken by a gradual pull?

A. I know well enough there is no commanding officer—

Q. Did you see it? A. No.

Q. You don't know if, as a matter of fact, they put on full steam?

A. No, I don't. Even by observation you wouldn't know it, perhaps. [1153—309]

Q. Isn't it possible that with a powerful enough engine exerting power on an anchor-chain could be able to break a line? A. Yes.

Q. Do you know whether or not the "Arcona" did or did not? A. Put on her full strain?

(Testimony of J. A. Kennedy.)

Q. Yes. A. No, I don't think—

Q. You don't know?

A. Oh, I don't believe there is any commander would do it.

Q. Do you know whether it is a fact that the commanding officer of the "Arcona" purposely put on full steam?

A. If he did I had a higher opinion of him then than I have now.

Q. Now, Mr. Kennedy, do you still maintain that that line was not a strong one? A. Yes.

Q. Simply because you don't believe that the "Arcona" officer would put on her enough power to break it? A. Not right up.

Q. Do you know when it actually broke? You don't know of your own knowledge how that line was broken? A. No, because I wasn't there.

Q. Do you know how the "Mauna Kea" broke her line?

A. No, I know it wasn't broken for quite a while afterwards.

Q. Do you think it was done by a steady pull or a jerk?

A. The swells come along and make a jerk.

Q. She must have exerted some power?

A. Yes.

Q. Do you think that the commander was worthy of blame by reason of the fact that the line broke by a jerk?

A. Yes, if he had broken it at the beginning.

Q. At any time? A. No. [1154—310]

Q. Suppose that the commander of the "Arcona"

(Testimony of J. A. Kennedy.)

had attempted the same maneuver when he broke his line that the commander of the "Mauna Kea" did when he broke his line?

A. There was no maneuver on the part of the "Mauna Kea."

Q. You don't think she was attempting to jerk the "Celtic Chief" off? A. No, sir.

Q. You saw her line broken?

A. No, I did not.

Q. Do you know that of your own knowledge?

A. No, I do not.

Q. You don't know, as a matter of fact, except as somebody else has told you? A. That is true.

Q. Now, then, Mr. Kennedy, if, as a matter of fact, the "Arcona" did develop a large amount of power by means of heaving in on her anchor-chain and thus broke her wire line, isn't it possible that that line was, notwithstanding that a good one?

A. It depends on the condition of the wire.

Q. I say, isn't it possible that it was a good line?

A. There was a possibility of it.

Q. You have testified, Mr. Kennedy, that it would be possible to break a good wire line.

A. You can break any kind of a cable.

Q. If, as a matter of fact, I say—I'll repeat my question. If, as a matter of fact, the "Arcona" did develop a large amount of power and exerted that by heaving in on her anchor-chain, isn't it quite possible that the line that broke was a strong line?

A. I don't see how she could develop very much power on her anchor line.

Q. You don't know? A. No.

(Testimony of J. A. Kennedy.)

Q. Do you know the appliances that she had aboard for [1155—311] the purpose of heaving in on her anchor-chain? A. No, except the anchor hoist.

Q. Were you aboard of her? A. No.

Q. I am asking of your own knowledge—I'm not asking for supposition of things, but I'm asking for your actual knowledge. Please confine your answers to your actual knowledge. A. No.

Q. Not knowing what appliances she had aboard, you don't know whether or not, do you, she could exert sufficient power upon her anchor-chain to break a good, strong wire from three to four inches?

A. If she has power, if she has hoisting power she can, if she has the horse-power to do it.

Q. Were you out there to see when the "Celtic Chief" was attached to the "Arcona," when the "Arcona" first put her line on the "Celtic Chief"?

A. I was around there. She hadn't got it aboard at that time when I left.

Q. So you didn't see the maneuver by which the line was broken? A. No.

Q. Did you observe the line of the "Arcona" later on Wednesday afternoon?

A. Not in the afternoon, no.

Q. You did not? A. No.

Q. When did you leave the "Celtic Chief" Wednesday when you had come out there in the morning; after you had come out there in the morning?

A. I should judge it might have been either eleven or half-past eleven.

Q. And then you didn't come back on that day?

A. I think it must have been half-past one.

(Testimony of J. A. Kennedy.)

Q. And arrived at the scene of the stranding when?
[1156—312] A. Two o'clock.

Q. And left there when?

A. About half-past two or probably about three.

Q. And came back to the "Celtic Chief" when?

A. That was my last visit aboard the "Celtic Chief."

Q. And then you came back to the scene of stranding when? A. At night.

Q. Nine o'clock. When you were there about half-past one or two o'clock, did you observe how the "Arcona" had her lines to the "Celtic Chief"?

A. No.

Q. You didn't observe them at all?

A. My whole mind then was to get the stevedores to get the freight.

Q. Did she have her lines attached, do you know?

A. I think the lines were up. They might be and they might not. I couldn't tell because I made no special observation of anything special except the stevedoring to get the fertilizer out.

Q. When the "Celtic Chief" first gave this decided jump or movement that you have testified to, Mr. Kennedy, I believe, according to your testimony, she had not yet come off, fully off, the reef? A. No.

Q. And it was not until fifteen or twenty minutes later that she came off?

A. Somewhere about that; that is my idea of it at that particular time.

Q. Now, *where* you at the time you saw the "Celtic Chief" give this jump?

A. On the stern of the "Mikahala."

(Testimony of J. A. Kennedy.)

Q. What actually happened, what did you see? Did she shoot forward?

A. Well, she came forward [1157—313] first I should judge, perhaps half a length.

Q. Half a length?

A. Yes, it might have been less because, as I say, the distances on water is something you can't tell exactly.

Q. How long did it take her to make that move—was it slow or steady?

A. Didn't come all at one time; it was a sort of coming along, you know, taking a little jump at a time.

Q. But you could see her decidedly moving?

A. Yes, the impression that was conveyed to me.

Q. She moved forward you think, about a hundred feet?

A. About a hundred feet, may have been more or less.

Q. There is no question that she moved considerable? A. No question.

Q. It was about fifteen or twenty minutes before she moved again? A. About.

Q. You still observed that the "Arcona's" lines were lying loose? A. Yes.

Q. Never made any change at all the whole fifteen or twenty minutes?

A. They were still lying down.

Q. No change whatever?

A. No change whatever so far as I could observe.

Q. Even though the "Celtic Chief" had decidedly moved fifteen or twenty minutes before?

(Testimony of J. A. Kennedy.)

A. That's my impression. At least, if they did they didn't take enough of the slack in to show.

Q. Let me ask you, Mr. Kennedy, when this sudden jump occurred, when was it that you had observed the condition of the lines of the "Arcona" with reference to that point of time?

A. We were doing nothing else but watching her lines from half-past eleven right on, somewhere about half-past [1158—314] eleven, I should judge. All we had to do was to observe these lines on the ship.

Q. Now, did you observe the anchor line, the Miller anchor line? A. I did.

Q. The Miller anchor line? A. Yes.

Q. You observed that? A. Yes.

Q. Did you see that?

Mr. WARREN.—I don't think that is proper cross-examination, your Honor; I didn't go into the Miller anchor line.

The COURT.—I'll allow the question.

Mr. OLSON.—Answer the question.

A. The line appeared to come in with the "Arcona's" lines; on the starboard side of the deck close to the "Arcona's" lines.

Q. The "Arcona's" lines?

A. The "Arcona's" lines; that is, the line that we were observing there. The other lines were from the center of the stern to the other side.

Q. Which side? A. The port side.

Q. Yes.

A. When the towing was—before she began to move the Miller lines were taut.

Q. The Miller line was taut before she began to

(Testimony of J. A. Kennedy.)

move? A. Before she began to move; yes.

Q. And did it continue to be taut?

A. Oh, they were not observable after the first move. That is the way from the time when we saw her start until she stopped; after that they weren't so observable.

Q. So that after she gave this first move you don't know whether or not the Miller line was taut?

A. No, because it wasn't easily seen then.

Q. And it was to port you saw what line of the "Arcona"? [1159—315]

A. The "Arcona's" line was on the starboard side; that is, one line. The other lines were on the other side and these were the two lines of which we had the best observation and near us.

Q. You couldn't see the line that was passing on the port side from the "Arcona" to the "Celtic Chief"? A. Not very well; not so well.

Q. Did you see it at all?

A. No, I can't say we saw it.

Q. It might have been taut?

A. I think it might be more readily seen—

Q. Notwithstanding the fact you didn't see it?

A. Yes.

Q. Why do you think it wasn't taut if you couldn't see it?

A. As I say, it may be an optical delusion.

Q. Did you say you didn't see anything at all about that line? A. No.

Q. Why do you say you don't think it was taut?

A. If it was taut we would have a chance to see it.

Q. Why any more so than if it were not taut?

(Testimony of J. A. Kennedy.)

A. Because if it had been taut it would be down less.

Q. As far as you actually know, it might have been taut?

A. It might have been but I didn't see it.

Q. In other words, you didn't see whether it was taut or not taut? A. No.

Q. Did you see any lanterns hung up in the mast of the "Celtic Chief"?

A. A red lantern, I think, that was hung up there.

Q. When?

A. These lanterns? I didn't observe.

Q. You didn't see them at all?

A. No, I didn't see them at all. They might have been [1160—316] put up and they might have belonged to the ship.

Q. You don't know whether there were any lanterns there?

A. I didn't happen to see them going up.

Q. You didn't see any red lights?

A. There were red lights, yes.

Q. Up on the mast?

A. I don't know where. If I had seen them going up it would have struck me.

Q. When you say that the "Mikahala's" lines, line was what you meant, one line? A. Two lines.

Q. Two lines?

A. That is, it was sort of a bridle line. We had a bridle made for her.

Q. Describe this bridle line.

A. It's a line that comes from both sides of the "Mikahala."

(Testimony of J. A. Kennedy.)

Q. Two separate lines coming clear over to the "Celtic Chief"?

A. Yes. I don't know, but they were taut.

Q. Isn't it a fact that they came together shortly behind the stern of the "Mikahala" and then followed one line? A. There was two lines.

Q. The whole distance to the "Celtic Chief"?

A. That's what I understand.

Q. How could it be a bridle line?

A. It was a bridle line to the end of the ship. That's what they call a bridle line. I'm not an expert.

Q. I am trying to find out whether or not the two lines came together or both went aboard the "Celtic Chief."

A. The two lines went aboard the "Celtic Chief."

Q. Each of them eight inches?

A. I don't know the size of them.

Q. They might have been six inches. [1161—317]

A. It might have been.

Q. You have testified on direct that they were eight inches. A. I don't think I did.

Q. But you don't know whether or not they were.

A. I don't know whether or not they were.

Q. Did you see them? A. I saw them, yes.

Q. What did you mean by saying a few moments ago that they might be either six or eight-inch lines?

A. Because they might be.

Q. Aren't you familiar with lines?

A. But you can't always tell at a glance what size a line is.

Q. The "Mikahala" was either six, eight, or nine

(Testimony of J. A. Kennedy.)

hundred feet away from the "Celtic Chief" when she was pulling? A. I suppose it was.

Q. How was the "Mikahala" pull, by means of her propeller? A. Yes, her anchor was down.

Q. Was she heaving in on her anchor-chain?

A. That is what the anchor was put down for.

Q. Did you order the anchor put down? A. No.

Q. How do you know why it was put out?

A. Because it was put out for that purpose.

Q. You don't know, as a matter of fact, what the anchor was put out for?

A. I know it has been always the practice to put the anchor out.

Q. Isn't it a fact that that anchor was put out simply for the purpose of holding the steamer in position? A. I don't know.

Q. It might have been?

A. I know that's the orders. In coming out there, they have to get their anchors out. [1162—318]

Q. They were pulling by means of their propeller?

A. Yes.

Q. That's the power upon which they were all pulling?

A. They've got to keep their chains taut, their anchor-chains.

Q. When you saw these lines on the "Mikahala" about eleven o'clock and you say they were taut what do you mean? A. She was pulling hard.

Q. What about their being taut?

A. About as taut as you can get them.

Q. How taut is that, straight line? A. Almost.

Q. Almost a straight line?

(Testimony of J. A. Kennedy.)

A. Once in awhile they'd slack up.

Q. You are willing to state, Mr. Kennedy, that the "Mikahala" was able at this time to keep two six or eight inch lines almost in a straight line almost over six or nine hundred feet of distance? A. No.

Q. What do you mean then?

A. It shows that they are pulling.

Q. Were they in a straight line or were they not?

A. No.

Q. How did they vary?

A. The ship was way high on up at the other end.

Q. How far did they vary from being a straight line?

A. I couldn't just exactly make it out but they were certainly strained.

Q. There was no bight hanging in the water?

A. Once in awhile there might be a sag.

Q. How long would these sags continue?

A. Touch down and come out. [1163—319]

Q. Would they stay for any length of time in the water? A. Not very long.

Q. What do you mean by not very long—for a few seconds or a minute or what?

A. It depends on the condition of the water.

Q. As a matter of fact, your statement was a little bit strong in saying these lines were practically in a straight line.

A. As far as practicable with the distance away from the ship. You can tell if a vessel is pulling.

Q. I'm not asking if the vessel was pulling. You testified they were in practically a straight line from the "Celtic Chief."

(Testimony of J. A. Kennedy.)

A. Perhaps not wholly in a straight line and a crooked line.

Q. Was it more seldom they hung practically in a straight line or in a crooked line?

A. They were hanging showing there was a pull on it.

Q. I'm not asking whether they were pulling on it.

A. Of course, they've got to be slightly crooked. It couldn't be an absolutely straight line.

Q. Why not?

A. Because the "Mikahala" is away across the "Mikahala's" line.

Q. You mean by a straight line going at an angle?

A. That's what you mean by a straight line.

Q. Was it in a straight line at an angle?

A. No, it wasn't.

Q. It was hanging in a bight.

A. When you say in a straight line that don't mean—

Q. Is it a practical impossibility to draw a line straight between two points?

A. Unless it's a very short line. [1164—320]

Q. Take an eight-inch hawser, is it a practical impossibility to so exert a pull upon a line six or nine hundred feet, the line being a manilla hawser, that it will be a straight line?

A. I am no expert because I haven't seen it in my experience.

Q. You know as a matter fact, don't you?

A. Sometimes they will break before they come to a straight line.

(Testimony of J. A. Kennedy.)

Q. Now, was this line, hanging as you say it was in a more or less of a bitt there any more out of the water than in the water?

A. If it's a taut line it's not much in the water.

Q. I've asked you a direct question—was it more out of the water or not? A. More out of the water.

Q. More of the time out of the water? A. Yes.

Q. Now, you are willing to say, are you, Mr. Kennedy, that the Mikahala'' was able to keep these two six-inch or eight-inch manilla hawsers more out of the water most of the time by reason of the power it was exerting on them? A. Yes.

Q. More of the time? A. More of the time.

Q. What's her horse-power?

A. I don't have it with me.

Q. Haven't you any idea what her horse-power is?

Mr. WARREN.—I object to the question; that isn't a proper method of cross-examination.

The COURT.—I allow the question.

A. I don't know the horse-power.

Q. Have you no idea at all?

A. I have some idea. [1165—321]

Q. About how much? A. I can't tell.

Q. What is your idea?

A. I don't know whether it is over between three or four hundred.

Q. Between three and four hundred horse-power?

A. Yes. I may be wrong.

Q. Do you know whether or not those lines had been hanging in the water a considerable period of time or a good deal that night?

A. A considerable period of time. So far as my

(Testimony of J. A. Kennedy.)

observation is concerned they weren't.

Q. Even when you first came out?

A. I am speaking now when she was pulling full speed.

Q. What time was it when you first went to take your nap? A. About nine o'clock.

Q. When you first came aboard—

A. I suppose—

Q. How long was it when you came aboard?

A. We stayed around there sometime.

Q. As much as half an hour?

A. It might have been or it might not.

Recess.

Q. You observed the "Mikahala's" line, did you, several times, between the time you first came aboard and the time you went to take your nap? A. Yes.

Q. And you say at that time she wasn't pulling so hard? A. No.

Q. And her lines were lying in a bight in the water?

A. Yes,

Q. You'd say, would you not, Mr. Kennedy, that those lines were pretty well water-soaked?

A. I presume they would be. [1166—322]

Q. You presume that they were pretty well soaked?

A. Naturally.

Q. So that later on in the evening when, as you say, the "Mikahala" was pulling hard and these lines were out of the water, those lines must have been pretty well water-logged?

A. I don't know; they were certainly soaked.

Q. They would be very much heavier full of water than if they were dry?

(Testimony of J. A. Kennedy.)

A. You pull that thing pretty taut and that takes a good deal of water out of them.

Q. They still would be moist?

A. How much or how little I couldn't tell you, but there would be a little.

Q. You still maintain, do you, that those lines were practically out of the water most of the time from eleven o'clock on, until the "Celtic Chief" came off?

A. Well, I wasn't keeping my eyes all the time on the lines. I was looking to other things.

Q. Do you mean to say, Mr. Kennedy, that they may have been in the water more than out of the water?

A. Well, if that was the case they must have been the times I wasn't looking at them.

Q. Is that a possible situation?

A. There is a possibility, certainly.

Q. In other words, you don't mean to say that those lines, that the "Mikahala" was pulling so hard on those lines that they were out of the water most of the time from eleven o'clock on?

A. The times that I was watching them they were, most of the time, out of the water.

Q. Sometimes they would dip down pretty well into the water? A. Yes. [1167—323]

Q. In other words, the "Mikahala" would naturally be influenced by the swell, as the swell would come along it would carry the "Mikahala" in and the line would dip in the water?

A. It would lift her up and come down and, of course, the line would very naturally come to the water.

(Testimony of J. A. Kennedy.)

Q. She would work back and forth too, would she not?

A. I don't know that she would do that very much because she had her anchor out.

Q. Do you mean to say that her anchor was out and that she could not vary at all?

A. No matter what you did there is always some variation.

Q. You didn't observe her anchor? A. No.

Q. You don't know whether she had her anchor out?

A. I didn't go forward to the bow to see how they were working it.

Q. You don't know how they were operating the winches that were hauling on those anchor chains?

A. I don't know personally.

Q. What made you say, Mr. Kennedy, that those lines constituted a bridle?

A. Because I understand that was the way they were hauling on her. She had two lines and they worked this bridle so as to be able to steer her.

Q. In other words, Mr. Kennedy, not having their line fastened through a chock directly astern of the "Mikahala" it would be necessary to have a bridle in order to keep her straight? A. Yes.

Q. Do you know whether these two lines were coming from the side of the "Mikahala," joined together and from that point to the "Celtic Chief" was one line or two? [1168—324]

A. I understood that they went both of them to the "Celtic Chief."

Q. Did you see that? A. I saw two lines.

(Testimony of J. A. Kennedy.)

Q. Did you see two lines at the "Celtic Chief" which were attached to the "Mikahala"?

A. Yes, there were two lines that went on the "Celtic Chief."

Q. From the "Mikahala"?

A. From the "Mikahala."

Q. You are sure of that?

A. That's my recollection. Of course, if I'm mistaken it was a delusion.

Q. In other words, your testimony in this respect is not what you understood from other people, but from your actual observation as you now remember it? A. Yes.

Q. What would be the reason for having a bridle if there were two lines?

A. I don't know. I'm no expert. I had nothing to do with that.

Q. You are familiar with the seafaring terms, are you not? A. Not very much.

Q. How do you know it's a bridle?

A. Just from what I heard them say, talking about a bridle.

Q. What did they say about it?

A. Well, it's put on for the purpose of the vessel to be able to steer, pull a certain way.

Q. That night?

A. At the time it was put on.

Q. What did you hear of those lines that night? You spoke of them constituting a bridle and that you heard them call it a bridle. What did they say about those lines being a bridle, that night?

A. I don't know, but I supposed that I either heard

(Testimony of J. A. Kennedy.)

it [1169—325] I saw that it was the bridle that I have seen on other vessels.

Q. Where were the lines of the "Mikahala" fastened to the "Celtic Chief"?

A. On the starboard side.

Q. Both of them?

A. Both of them on the starboard side.

Q. Through a chock?

A. I didn't pay any attention aboard the "Celtic Chief."

Q. Did they both come to the same point on the "Celtic Chief"?

A. They ran both that way.

Q. You think they both came to the same point on the "Celtic Chief"?

A. I wouldn't be so positive about that, whether they went in at exactly the same chock or not.

Q. How do you know they were on the starboard side of the "Celtic Chief"?

A. That's my impression.

Q. You remember that as an actual observation that you made at that time?

A. That's my impression, yes. I don't see how they would go way around to the port side certainly.

Q. You observed the "Arcona's" lines?

A. I observed the "Arcona's" lines.

Q. And you know they went right up one to one side and one to the other side of the "Celtic Chief"?

A. Yes.

Q. Were not the "Mikahala" lines fastened in the same manner on either side of the "Celtic Chief"?

A. I don't think so.

(Testimony of J. A. Kennedy.)

Q. What did the "Mikahala" do when the "Celtic Chief" gave that first jump some fifteen or twenty minutes before she finally came off?

A. She kept on pulling.

Q. Did you observe the other Inter-Island vessels, the [1170—326] "Helene" and the "Likelike"?

A. No, they were on the other side.

Q. Were they to port or to starboard?

A. Port or starboard. The one was port side and the other was more in the center.

Q. But you were to the—you were on the starboard side of the "Celtic Chief"? A. Yes.

Q. And you didn't observe those two vessels at all?

A. I didn't see the others so well.

Q. Where was the "Arcona" with respect to the other two vessels, the "Helene" and the "Likelike"?

A. Between the "Helene" and the "Likelike."

Q. Where was she pulling with respect to the "Celtic Chief"? A. Astern.

Q. Practically directly astern?

A. Practically about that.

Q. Where was the "Likelike" pulling?

A. She was on the port side.

Q. And where was the "Helene"?

A. Practically astern also.

Q. Now, which one was astern, the "Arcona" or the "Helene"?

A. Now, you've got to lay it on paper and draw it on a very fine line. Both were practically astern.

Q. Were they close together?

A. They were not very far apart.

Q. But you could see the "Arcona" but you

(Testimony of J. A. Kennedy.)

couldn't see the "Helene"?

A. Because the "Arcona" was next to us.

Q. Are you willing to swear, Mr. Kennedy, that the "Arcona" at no time from eleven o'clock when you first got up from your nap, at no time, had no strain on her lines? [1171—327]

A. I didn't see it.

Q. Are you willing to say that they had no strain?

A. I wouldn't swear that they had.

Q. In other words, as far as your observation went there was no strain?

A. No, so far as I could see.

Q. But there might have been times during this period when there might have been a strain?

A. There might have been.

Q. Now, then, Mr. Kennedy, isn't it probable that the "Arcona" pulling on her lines or heaving in on her anchor chain whenever the "Celtic Chief" would come, at times her lines would slacken up and other times they would be taut so that your observation would not go to the extent of saying that she was not pulling?

A. Well, it might be, but it would require a good deal to convince me.

Q. Nevertheless it might be so?

A. Yes, it might be so, but I would be very doubtful about it.

Q. In other words, you don't believe that even though the "Celtic Chief" came away with a very decided jump for a part of the distance that she was aground, fifteen or twenty minutes before she came off, still you do not believe that the "Arcona" was

(Testimony of J. A. Kennedy.)

pulling or had a strain?

A. Not to my observation.

Q. You don't think she did at all?

A. Personally, that's my belief.

Q. In other words, you believe that if the officers of the "Arcona" knew that she was coming, nevertheless they either neglected or refused to permit the "Arcona" to aid in bringing her off? [1172—328]

Mr. WARREN.—I think that this testimony goes too far in the supposititious. That's beyond the range of proper cross-examination.

The COURT.—I don't see how we are concerned with his opinion on that point, Mr. Olson.

Mr. OLSON.—In view of your Honor's intimation as to that question, I will withdraw it and I will put it in a different form which will practically meet the objection. In other words then, Mr. Kennedy, according to your observation, notwithstanding the fact that the "Celtic Chief" fifteen or twenty minutes before she actually came off the reef gave such a bound that persons on her must have known that she was moving, and nevertheless the "Arcona" never did one thing toward aiding in getting her off from that time, during this fifteen or twenty minutes. That is what you would have the Court believe, is it?

A. So far as any outward manifestations were concerned; so far as we could observe from the outside.

Q. I'm asking for your observations.

A. Unless there was some demonstration to lead me to believe that they were doing the contrary, and there was none observable to me.

Q. Where were you about six o'clock on Wednesday afternoon?

(Testimony of J. A. Kennedy.)

A. I was taking my dinner, I guess.

Q. You weren't out at the "Celtic Chief"?

A. No.

Q. You were not at the "Celtic Chief" at any time on Wednesday night? A. Wednesday night, yes.

Q. Wednesday night? Were you on the "Celtic Chief" Wednesday at any time? A. No, no.

Q. You don't know who was aboard the "Celtic Chief" that night? [1173—329] A. No.

Q. What direction did the "Celtic Chief" take when she came slowly off the reef and came afloat?

A. She came down towards the "Arcona."

Q. Directly towards the "Arcona"?

A. In that direction.

Q. I think you testified on direct examination that if it hadn't been for the manoeuvring of the "Mikahala" in towing her to a side she would have rammed the "Arcona." A. It looked that way.

Q. As far as you could see. In other words, the "Celtic Chief" came directly toward the "Arcona"?

A. She was evidently heading to sea.

Q. I think you testified that the "Mikahala's" horse-power was somewhere between four and five hundred. The horse-power of the "Mikahala"?

A. Three hundred indicated horse-power.

Q. That's what it is?

A. That is the indicated horse-power.

Q. You have looked that matter up?

A. I looked it up.

Q. And you are now prepared to say so?

A. Three hundred indicated horse-power.

Q. Do you know what the horse-power of the

(Testimony of J. A. Kennedy.)

“Helene” is? A. I didn’t look it up.

Q. Approximately?

A. I’m sorry having suggested that this forenoon because it’s in the Federal records in the book.

Q. Do you know what the horse-power of the “Likelike” is?

A. I think the “Likelike’s” horse-power is in the neighborhood of 275 or 285 horse-power. The reason I have that more particularly in my mind was because the connection between the “Likelike” and the “Intrepid” in the [1174—330] Loch Garve case. They were both much alike and I think it was 275 or 285. It’s less than 300, any way.

Q. You signed the libel in this case, did you?

A. That’s more than likely. I don’t remember, but I take your word for it.

Q. If, as a matter of fact, your name appears signed on the original libel, will you produce it, Mr. Clerk? A. I accept your statement.

Q. Apparently the horse-power is not alleged in your libel so I won’t need to refer to that. According, then, to your recollection, the “Likelike’s” horse-power is about 270? A. 275 or 285.

Q. Have you no recollection at all as to the approximate horse-power of the “Helene”?

A. Judging from that she is nearly four hundred.

Q. She would be more powerful than the “Mikahala”?

A. Yes, but that’s giving it her indicated horse-power.

Q. Now, then, were there any vessels on the port side of the “Celtic Chief,” towing on her except the

(Testimony of J. A. Kennedy.)

"Mikahala"? A. The "Mikahala."

Q. No others? A. No.

Q. No others at all? A. No.

Q. Do you know the direction of the anchor lines of the Miller Salvage Company from the "Celtic Chief"? A. Yes.

Q. Which direction was that?

A. It was between the "Helene" and the "Arcona."

Q. Between the "Helene" and the "Arcona"?

A. Yes.

Q. And there was a strong pull so far as you could observe; at any rate the line was taut from that anchor to the "Celtic Chief" at the time she first gave that jump? [1175—331] A. Yes.

Q. And, notwithstanding the fact, Mr. Kennedy, that the two Inter-Island vessels that had lines attached to port of the "Celtic Chief" and the Miller anchor line also, and you were on the "Mikahala" to the starboard of the "Celtic Chief," she took a direct line towards the "Arcona."

A. That was because we practically bunched the "Helene," the Miller Salvage anchor and the "Arcona."

Q. All of them to the stern of the "Celtic Chief"?

A. Well, practically; as near as you could get them, close to the stern of the "Celtic Chief." They were pretty near all together, as far as practical. Which one was more astern, I think is a question.

Q. But the "Arcona" was between those vessels?

A. The Miller Salvage anchor was closest to the stern of the "Arcona" and the "Helene" came next,

(Testimony of J. A. Kennedy.)

but, as I say, they were all on the opposite side of the "Arcona."

Q. From the side you were on? A. Yes.

Q. Nevertheless, the "Celtic Chief," when she came off, headed directly for the "Arcona"?

A. You may say she headed directly for the "Arcona" or directly for the "Helene."

Q. You stated, did you not, that the "Mikahala" managed to get enough speed going so that she could get the "Celtic Chief" in tow. The "Celtic Chief," to all appearances, was about to run into the "Arcona." That's correct, is it not?

A. She was about to run in on the port side.

Q. And it was only after the "Mikahala"—

Mr. WARREN.—I object. I'd like to have the witness answer the question without interruption.

A. When she came into deep water the "Mikahala" turned [1176—332] her head the other way so as to keep her from going on the "Arcona" as far as possible. The time when she was closest to the "Arcona" she was practically overlapping between the "Arcona" and the "Mikahala."

Q. Before the "Mikahala" got her away?

A. No, no, no. The "Mikahala" began to pull her that way as soon as she came off the reef, and there was that distance between coming off the reef and the "Arcona."

Q. But until the "Mikahala" had managed to get under way sufficiently to pull the "Celtic Chief" off to a side, the "Celtic Chief" was heading for the "Arcona"?

A. She was coming astern. You might say she

(Testimony of J. A. Kennedy.)

was heading for those three lines that were pulling her astern.

Q. But I think you testified on direct, Mr. Kennedy, specifically, without reference to the other boats, that the "Celtic Chief" came off the reef and headed with her stern foremost, toward the "Arcona"?

A. Yes, because the "Mikahala" was pulling her that way.

Q. The "Mikahala" was pulling that way?

A. The "Mikahala" had changed her course.

Q. How far were you from the "Arcona" when the "Mikahala" was pulling immediately prior to the "Celtic Chief's" coming off?

A. I don't exactly know. It might—these figures, these ideas of distance on water are very deceptive.

Q. What do you think?

A. Perhaps two hundred feet, more or less.

Q. Two hundred feet or so?

A. Might be more than that.

Q. Hardly less? A. Might be less.

Q. Much less?

A. I don't think it would [1177—333] be so very much less.

Q. Practically speaking, you think two hundred feet would be the limit?

A. So far as my judgment is concerned.

Q. And the "Mikahala" was practically pulling in the same direction as the "Arcona"?

A. No, not after she came off.

Q. Before she came off?

A. The "Mikahala" was more on the starboard

(Testimony of J. A. Kennedy.)

side and both her lines were attached to the starboard quarter.

Q. Of the "Celtic Chief"?

A. Of the "Celtic Chief." That's what I understand; that's my judgment.

Q. Do you think there was any chance of the "Celtic Chief" ramming the "Helene"?

A. No, because as soon as she came off we began pulling her over this way.

Q. What became of the "Helene's" lines?

A. I don't know; I suppose, but I don't know.

Q. What happened to her line after she came out?

A. I don't know what the arrangements were about the steamers.

Q. Have you any opinion as to what it was that caused the "Celtic Chief" to come directly in line for the "Arcona"?

A. When she came off she was heading—you are putting words in my mouth that she was coming direct for the "Arcona." There was the "Arcona" and the "Helene" were all practically astern. When she came off she was practically heading towards anyone, but the "Mikahala" pulled her across the other way.

Q. Then, Mr. Kennedy, it was the "Mikahala" that almost caused the "Celtic Chief" to ram the "Arcona"?

A. Not at all. The "Arcona" did not get out of the way. [1178—334]

Q. You knew that the "Arcona" was pulling by means of her propeller? A. Yes.

Q. She couldn't very well get out of the way?

(Testimony of J. A. Kennedy.)

A. The same as the other boats.

Q. If she did not have her propeller going—

A. She surely had steam up.

Q. She did that? A. Oh, yes. Evidently, yes.

Q. What did you mean just a moment—now, then, when you made that answer a few answers ago in which you said that the "Celtic Chief," when she came off, was heading toward the center, as I understand you, between the middle of the three pulling appliances, the "Arcona," the Miller anchor and the "Helene" and then the "Mikahala" pulled her off to the side, do you mean to say by that, Mr. Kennedy, that if it hadn't been for the fact that the "Mikahala" did pull her to the side she never would have run into the "Arcona"?

A. I believe that was the programme that was laid out.

Q. You knew that the "Arcona" wasn't expected to get out of her way under her own steam?

A. No, no, not that.

Q. What about this answer that you made a few moments ago? Please answer that question with reference to that. If the "Celtic Chief" had not been pulled to the side by the "Mikahala," do you mean to say that she would not have run into the "Arcona"? A. I don't know if she would.

Q. Why did you say, Mr. Kennedy, on direct that she came off directly for the "Arcona," and the "Arcona" was in danger?

A. That is when she came off the reef, but there was a distance between the reef and the "Arcona" as well as the other vessels. [1179—335]

(Testimony of J. A. Kennedy.)

Q. Why didn't you also say on direct that the "Helene" was also in danger of being rammed?

A. She wasn't so much.

Q. In other words, the "Celtic Chief" did come off in direct line for the "Arcona" and would have run into the "Arcona" if it hadn't been for the "Mikahala"?

A. She was heading down, but the programme was that the "Mikahala" was going to pull her around.

Q. When was that programme made?

A. I believe it was made; the programme was changed.

Q. Did you hear it?

A. I didn't know anything about it.

Q. You don't know personally whether there was any such programme made?

A. It wasn't made with my knowledge.

Q. You know nothing of your own knowledge?

A. No.

Q. Do you know where the Miller Salvage Company's anchor line was attached on the "Celtic Chief"? A. What is that?

Q. The Miller anchor line?

A. I think it was immediately astern somewhere some of those chocks in the stern.

Q. It went over the poop, did it not?

A. Over the which?

Q. The poop?

A. It came out directly astern there.

Q. How high out of the water would you say the "Celtic Chief" was astern?

A. That's one of these things, again, that is simply

(Testimony of J. A. Kennedy.)

guesswork. Astern?

Q. Let's have it approximately. Let's have your best [1180—336] judgment.

A. Perhaps fifteen feet.

Q. Fifteen feet, say. About how far, according to your observation, was it from the stern of the "Celtic Chief" that the Miller anchor line dipped into the water or went into the water? Give us your best judgment.

A. That's one of those things that you can't very well tell.

Q. When you observed them.

A. When I observed them?

Q. Yes, about eleven o'clock?

A. It came pretty well out.

Q. How far out?

A. That's one of the things that's hard to tell.

Q. Let's have your best judgment, Mr. Kennedy, that's all we're asking you to give.

A. Well, I think myself, my best recollection is that it was pretty well out of the water. There was very little of it in the water.

Q. Was it fifteen or twenty feet away from the "Celtic Chief," fifty feet of a hundred feet?

A. More than that.

Q. More than a hundred feet before it touch the water?

A. As I say, these distances are deceptive.

Q. But according to your judgment it was more than a hundred feet? A. Yes, I think so.

Q. But you couldn't see that after she had give that first jump?

(Testimony of J. A. Kennedy.)

A. I wasn't so much interested in lines then.

Q. What were you interested in?

A. In seeing her move again.

Q. You were watching the lines particularly?

A. Not so much the other side; that is, our own lines.

Q. You were more interested in watching your own lines? [1181—337]

A. No, in watching those that were nearest.

Q. And those that were nearest were those that were directly astern?

A. There was the three lines, the Miller Salvage and the "Arcona," and farther off the ———.

Q. You saw them all three? A. Yes.

Q. You were interested in three of those?

A. Yes.

Q. You did not see the Miller Salvage line after that first time, jump of the "Celtic Chief," but you did see the "Mikahala's" line and the "Arcona" line?

A. No, I did not see the "Arcona" line at all excepting hanging down the side of the ship.

Q. Didn't you see the Miller Salvage Company's line also? A. Yes, I did, but I didn't see—

Q. Was it hanging loose in the water?

A. I don't know whether you call it loose, but it was hanging down from the ship.

Q. Did it have as much as a strain on it?

A. No, not the same strain as before.

Q. It did not have the same strain?

A. No, at least that's my judgment.

Q. After this first jump of the "Celtic Chief" you

(Testimony of J. A. Kennedy.)

did see the Miller Salvage Company's line and it touched the water at a point nearer the "Celtic Chief" than before that.

Mr. WARREN.—The counsel is assuming that she came off in a jump and the witness testified that she moved in—

Mr. OLSON.—I'll withdraw the question. You had observed the Miller Salvage Company's line immediately prior to this first decided movement that you observed on the part of the "Celtic Chief"?

A. Yes.

Q. And, according to your best judgment, the Miller Salvage [1182—338] Company's line touched the water at a point not less than a hundred feet away from the stern of the "Celtic Chief"?

A. That's according, that's my best judgment.

Q. After this first decided move on the part of the "Celtic Chief," you again observed the Miller Salvage Company's line, did you? A. Yes.

Q. And then it touched the water at a point nearer to the "Celtic Chief"; is that correct?

A. Yes, practically.

Q. Was it in a direct line or did it *hang* in a bight?

A. I don't understand that question.

Q. You know what a bight is? A. I don't know.

Q. A sag. A. Oh, a sag.

Q. Did it hang in a curve? A. Sort of a curve.

Q. You observed it perfectly plain?

A. I observed it sufficiently. That was the impression on my mind.

Q. Why, then, did you say either on direct or the early part of the cross-examination, that you did not

(Testimony of J. A. Kennedy.)

observe the Miller line? A. Did I say that?

Q. You did. I'll withdraw the question to save time. Did you testify before the noon recess, Mr. Kennedy, that after this decided, first decided movement on the part of the "Celtic Chief," that you did not observe the Miller line?

A. If that was qualified immediately after she started it's possible that we couldn't see it; that is, we could always see it hanging down, but it is a question if we could see it before she was pulling. Naturally enough, when she came off that line would sag down at once.

Q. Well, now, just exactly what is that you wish to say, in [1183—339] response to my question whether or not you did see the Miller Salvage Company's anchor line after this first decided movement of the "Celtic Chief" which you observed somewhere in the neighborhood of eleven o'clock?

A. What did I see?

Q. What do you wish to testify as to whether or not you did see that anchor?

A. Just the same as I have already testified. I don't know as I can testify any different.

Q. Let's have a repetition of it.

A. That before they began pulling when they were all working, the Miller salvage line was taut.

Q. That's before?

A. That's before I saw any movement.

Q. Before she began to move?

A. Before she began to move.

Q. And afterwards?

A. Afterwards when she made these consecutive

(Testimony of J. A. Kennedy.)

movements and then stopped I didn't see it except hanging down.

Q. But you did see it hanging down?

A. I could see it coming off the stern.

Q. Between this first decided movement on the part of the "Celtic Chief" and the time she came off fifteen or twenty minutes later, you did see that the Miller Salvage line picked up? A. She picked up.

Q. You did see that line suddenly pick up?

A. I say that's the impression. That may have been brought up again to the same extent as what it had before. It tightened up. They got the slack taken in.

Q. So, according to your judgment, the Miller Salvage Company line did have a considerable strain on it, even after this strain had begun to come?

A. I don't say how much or how little, but she had enough to get her lines taken in and the line tautened up. [1184—340]

Q. The strain was noticeable? A. It picked up.

Q. Was there a noticeable strain on the Miller line?

A. I noticed the line come out from the ship.

Q. Can't you answer question?

A. According to my judgment the slack was taken up.

Q. But there was a noticeable strain?

A. There was a strain.

Q. A strain that you could notice.

A. Well, that was my impression that there was some strain then.

Q. What happened to the "Mikahala's" lines when this first decided movement on the part of the "Celtic

(Testimony of J. A. Kennedy.)

Chief" showing that was coming off took place?

A. After she came?

Q. During that time? A. What was what?

Q. What happened to the "Mikahala's" lines with reference to the position that they had held in the air? A. When she was pulling?

Q. During this time that the "Celtic Chief" was coming, fifteen or twenty minutes before she came?

A. Yes.

Q. Did they loosen up?

A. Just slackened up temporarily, but she was going full speed astern and was kept going.

Q. And tautened up again?

A. They simply slacked up a little in the water, but she was going full speed ahead, so that she couldn't slack up very much.

Q. And this distance that the "Celtic Chief" came would be some hundred feet or so?

A. It might be more, it might be less; might be fifty feet.

Q. You said, did you not, Mr. Kennedy, that at this decided [1185—341] movement when she came off, according to your judgment, she came about half a length.

A. It's so hard to tell these things.

Q. You are only asked to give what, according to your judgment, she moved about half a length or not less than a hundred feet?

A. Not more than a hundred feet. It's hard to tell.

Q. But you think it was about a hundred feet?

A. It was somewhere around there; fifty or a hun-

(Testimony of J. A. Kennedy.)

dred feet or more or less, I can't tell.

Q. Do you know whether or not the "Arcona" picked up her anchors and laid them out further ahead?

A. No, there was no time to do that.

Q. Simply heaved in her anchor chain?

A. I don't know.

Q. She hauled up her anchor and lowered it?

A. I heard afterwards that she lost her anchor; she slipped it so as to get out of the road.

Q. You mean before she came off when she had come this fifty or a hundred feet?

A. I don't know.

Q. You've testified Mr. Kennedy, that you took your observations of the position of the "Celtic Chief," and the changes therein while she was ashore from your house? A. Yes.

Q. Your house is where?

A. The head of Victoria Street.

Q. And where is this tower or whatever it is that you spoke of that you used as a range?

A. Ala Moana Road, down in front of the Honolulu Iron Works.

Q. About how far is your house from that tower?
[1186—342]

A. I should say it's a mile perhaps a little more.

Q. Isn't it more than a mile?

A. I don't know. It's a mile from the Postoffice to Thomas Square and I live at the top of Victoria Street and the tower is beyond the Postoffice; it's nearer than the Postoffice.

Q. You mean the Honolulu Iron Works—you

(Testimony of J. A. Kennedy.)

mean the works themselves?

A. The works themselves.

Q. Is that nearer to your house than the Post-office?

A. I don't know, I haven't measured it. I don't think there is very much difference.

Q. How far out from this tower, would you say, to the place where the "Celtic Chief" was stranded?

A. I should think it might be a mile. It might be more or less, I don't know.

Q. How high is this tower?

A. Twenty-five, oh perhaps thirty-five feet the base.

Q. Is the tower more than this V-shape that you spoke of? A. The base is thirty-five feet.

Q. How high is the tower you used as your range?

A. I suppose it might be about fifty feet.

Q. What is the elevation above sea level?

A. It's over a hundred and ninety, about 196 feet.

Q. This tower you used is right near there, practically sea level. A. Pretty near it.

Q. And how far was the "Celtic Chief" from this tower?

A. In my judgment, I should think it was about half a mile.

Q. Do you mean to tell the Court that you could use a tower at sea level, your own attic being 190 feet above [1187—343] sea level and that you could see through your attic to this "Celtic Chief"?

A. Most certainly I did. Some of these dimensions may be out, but most certainly I did. I could take you up and show you.

(Testimony of J. A. Kennedy.)

Q. Now, Mr. Kennedy, how do you know that she had moved only thirty-six or forty feet from Monday night until Tuesday morning?

A. From the appearance of certain things there that Monday, that rod between the tower, between the V-shape.

Q. And what was there the next night? Where did you measure these thirty-six or forty feet?

A. How did I measure it off?

Q. Where did you measure off this thirty-six or forty feet?

A. When the ship came in; when she came to the wharf.

Q. You mean you took your observations from objects on board the ships themselves?

A. I couldn't tell now, though after the ship came in I went and stepped it off.

Q. What were those objects?

A. There was the chimney of the hoisting engine and the mast and these were the ones by which I noted it.

Q. You could see the mast perfectly plainly with your glasses?

A. You could see it with the naked eye so far as that is concerned.

Q. You were positive that she didn't come more than fifty feet farther ashore from the time that you first saw her Monday evening until Wednesday afternoon when you made your last observation?

A. Well, she mightn't have been any at all; she might [1188—344] have just swung around.

Q. I'm asking you, she might have gone fifty feet?

(Testimony of J. A. Kennedy.)

A. That was the distance. Whether it was a swinging around or going in I don't know, but the object that was between the V-shape and the light was a certain mark, next night it was a certain mark and I measured it when she came in.

Q. You observed the "Celtic Chief," did you not, upon these various times that you went out there?

A. Yes.

Q. And you know that she maintained practically the same direction from beginning to end?

A. Yes.

Q. Well, it couldn't have been from swinging around?

A. I don't think it, but I say it might be.

Q. But she couldn't have gone any further than fifty feet because she would not be going in further if she swung around? A. No, that's true enough.

Q. So fifty feet would be the limit from your first observation Monday?

A. Yes, according to this place and my place, the objects which I had in view.

Q. You saw the steamboats operate the "Celtic Chief"?

A. Yes, yes, yes. I marked where I put my glasses first and the tower was in the same place and it was the center of the tower when the certain object was lying in the middle of it and the next day it was away and something else appeared in the middle.

Q. What was this something else?

A. There was the mast and the chimney of the hoisting engine and other things there that I noted

(Testimony of J. A. Kennedy.)

the thing [1189—345] by.

Q. Did she do any bumping after Monday when you saw her for the first time? A. Did I do what?

Q. Did she do any bumping later on when you saw her first after that?

A. I don't think it was so noticeable. I don't remember of having the severe bumps that we had the first day.

Q. Could you tell she was aground about two-thirds her length when you first saw her?

A. Yes, judging merely from the trembling of the boat when I was outside.

Q. If the soundings that were taken around the "Celtic Chief" that morning, that day, show that she had about the same depth, she was aground for her entire length at about the same depth, you wouldn't say from your observation that those soundings were incorrect. A. No, perhaps not.

Q. In other words, your impression that she was two-thirds is merely an impression and you yourself don't attach much weight to that? A. No.

Q. Do you know whether or not the "Celtic Chief" sustained any damage from her bumping?

A. I don't know.

Q. Did you say you don't think so?

A. I don't know. I didn't hear of it.

Q. It was only this first morning that you observed this bump? A. That is the severe bump.

Q. Did you observe any bumping afterwards?

A. Nothing like the bumps made the first day.

Q. Did you observe any bumping at all?

A. When you get aboard the ship several times

(Testimony of J. A. Kennedy.)

that way you get accustomed to it.

Q. But the first time you got on is the time that impressed [1190—346] your memory most specially and you aren't so clear when was the other. You used a comparison with an earthquake. What did you mean?

A. Some of the earthquakes we have have a very pleasing movement.

Q. Here in Honolulu? A. Yes.

Q. That's what you were referring to?

A. Yes.

Q. I take it you meant the bumping of the "Celtic Chief" was not as pleasing as these earthquakes.

A. Oh, the ones we have here are very pleasing things; they sometimes put you to sleep, they are so gentle.

Q. Were you out there at the scene of the stranding at the time that the "Intrepid" gave way, cut loose, and the "Arcona" took the same position that the "Intrepid" had had?

A. I don't understand she gave way.

Q. I understand that; at the time she came in?

A. That is the time they cut her lines.

Q. Were you there that time?

A. I don't know. I was there at the time that they gave her notice that if she would not go they would cut her line.

Q. Where were you?

A. I was alongside the "Intrepid."

Q. You know that notice was given?

A. I know they told him.

Q. Who told you?

(Testimony of J. A. Kennedy.)

A. Nobody told me, I heard it.

Q. Did Captain McAlister hear it?

A. I don't know.

Q. When the order that they would cut away the boat, when the man gave the notice who was the man he notified on her?

A. Singlehurst. [1191—347]

Q. And who was Mr. Singlehurst?

Mr. WARREN.—I think that is going a little beyond the range of the cross-examination.

The COURT.—I overrule the objection.

Q. I am trying to think now whether it was the mate or the captain.

Q. It was one of the two, on the cabin of the "Celtic Chief"?

A. It was more probably aboard the "Intrepid."

Q. What did that officer reply?

A. I don't think I heard him.

Q. Didn't you say a few minutes ago that you didn't know whether he heard him or not?

A. Yes.

Q. That is what you want to say? A. Yes.

Q. No reply was made?

A. No reply that I could hear. I don't think he heard him. He didn't act as if he heard him.

Q. Did he do anything at all? A. No.

Q. And then the line of the "Intrepid" was cut?

A. No, I don't know.

Q. You didn't see it cut?

A. Because I came right into town.

Q. What did Mr. Singlehurst?

A. I think he told him he would have to get out

(Testimony of J. A. Kennedy.)

of there to make room for the "Arcona."

Q. Was this man either of the mates or the captain that you are referring observable?

A. Oh, I saw him, yes.

Q. How close were you to the "Intrepid" when Mr. Singlehurst was there? [1192—348]

A. Lying alongside.

Q. Easily within hailing distance?

A. Oh, yes, we were within hailing distance. I forget whether the steam launch or gasolene thing was still going, but if it was—

Q. That was on Wednesday, was it not?

A. It was Wednesday. Wednesday was the day the "Arcona" came out?

Q. Yes, Wednesday morning.

A. Yes, Wednesday, before that.

Q. Was the "Arcona" out there yet?

A. It was before the "Arcona" came out. I'm not sure whether it was that morning. I think it was that Wednesday, the forenoon.

Q. You went on into town and didn't get back until about half past one that afternoon. A. Yes.

Q. Now, the "Arcona's" lines were attached all the time from the reef line?

A. They were working on them, yes. They were not.

The COURT.—Mr. Kennedy, where did you say Mr. Singlehurst was when he gave the notice?

A. In the gasolene launch.

Q. And Singlehurst was with you?

A. It was his boat I was taking advantage of.

Mr. OLSON.—When did the Inter-Island first be-

(Testimony of J. A. Kennedy.)

gin to take cargo from the "Celtic Chief" in the attempt to lighten her?

A. I wouldn't be sure about that. Captain Haglund knows [1193—349] more about that. I think, though, it was decided Tuesday afternoon.

Q. In other words, the Inter-Island was discharging cargo, taking cargo from the "Celtic Chief" before either the Miller anchor was down or the "Arcona" came out?

A. Yes. I know in connection with the "Arcona" for this reason, I came over that night. I had been up in Hackfeld's and Pfothenhauer introduced me to the captain and the captain asked me how much fertilizer we had out and I told him how much was out and he asked me how much we would have by tomorrow night and I told him and he said, "I want to take ahold of her when you get a thousand tons out." I told him I thought we would have out by tomorrow night, high tide, about 800 tons.

Q. Do you know how much the Inter-Island had taken out by Wednesday noon?

A. I couldn't tell until afterwards, but I know that the Inter-Island had done considerable by hand.

Q. The winch of the "Celtic Chief," in other words, didn't prove to be a very powerful one?

A. It wasn't sufficient for our purposes. Whether it was in the steam or whether the cylinders were too small, I don't know which it was, but there was something that caused *to to bet* the barge with the hoisting engine on it.

Mr. OLSON.—I think that's all.

(Testimony of J. A. Kennedy.)

Cross-examination of J. A. KENNEDY on Behalf of
Miller Salvage Company, Ltd.

Mr. WEAVER.—Q. Mr. Kennedy, when you came on deck after the “Intrepid” had been cut away, describe what was the “Mikahala” [1194—350] doing, if anything, with her engine?

A. She was still using her engine.

Q. Full speed or half speed?

A. When we came up?

Q. Yes.

A. To my knowledge she was going full speed.

Q. How long was that before any signals were made from the “Celtic Chief”?

A. I don’t know when these red lights were put up.

Q. Didn’t you see them?

A. I didn’t happen to see them going up.

Q. Did you see the signals of the vessel, those rockets?

A. I saw them when the ship was just about coming off.

Q. How long did you come up on deck before those signals came up?

A. Oh, before that was about eleven o’clock that I got up but these signals didn’t go off till twelve o’clock.

Q. There was a long interval between the time you came up from your nap and the time the signals went off?

A. The signals? They seemed to be very long after that.

Q. The signals were given long after the boat had

(Testimony of J. A. Kennedy.)

made a perceptible move?

A. I think she was just about moving.

Q. Why were you called up that time? Did you give orders? A. No, I didn't give orders.

Q. Why were you called up at the time?

A. I wasn't called up but I called up the others.

Q. Did you call up the "Iwalani"?

A. Yes, yes.

Q. Were you not informed that the boat was beginning to move when you came up?

A. No, no, I just looked at my watch and saw what time [1195—351] it was.

Q. And at that time the boat had begun to move some distance?

A. Not the "Celtic Chief"; no. It was not until near twelve o'clock. It's so long since.

Q. Could you observe what the "Helene" and the "Likelike" were doing?

A. Not very well because they were over on the other side.

Q. Could you see the sterns of the "Likelike" and the "Helene"? A. I could see them.

Q. Were there any lights like search-lights?

A. No, no. I think the search-light was the "Arcona's."

Q. Do you know whether or not they were turning over their engines?

A. I don't know personally.

Q. Couldn't see their lights either.

A. I didn't pay much attention to them. They were a little too far over on the other side, I think, to make special impression on me.

(Testimony of J. A. Kennedy.)

Q. How do you know, I believe you said these boats, the "Helene" and the Likelike," were pulling ahead and turning over their engines?

A. Because I saw it from the records.

Q. Have you got the records?

A. The records were turned in.

Q. What records do you mean?

A. The engineer's records.

Q. Can you produce them?

A. I believe I can produce it.

Q. Will you produce it?

Redirect. [1196—352]

Mr. WARREN.—Q. On cross-examination, Mr. Kennedy, in answer to a question by Mr. Olson which was directed to your means of determining whether or not the lines of the "Arcona" were taut or otherwise and the Miller line, you answered it was all these lights that gave you the best means of observing conditions, all those lights that were there, not the search-light. Now, then, will you explain that answer? Just what did you mean by that, all those lights that gave you the best means of observing the conditions?

A. The lights closest to us. The light of the "Arcona" being a little over on the starboard side naturally reflected her line over on the starboard side.

Q. What did you mean by saying that it was the "Mikahala" lights that gave you the best means of observing the conditions.

A. The "Mikahala" lights?

Q. Yes. A. That's the two lines.

Q. You refer to those lines, the "Mikahala" lines

(Testimony of J. A. Kennedy.)

being the best means of observing the conditions as to the other lines?

A. I don't know why I said that. I don't understand it myself.

Q. Now, with respect to the observations you were making and your statement as to how far you think the "Celtic Chief" moved, you said, I think you said thirty-five or forty feet on one observation and five or six on the next. That would make it forty-five or fifty feet. Now, with respect to that distance, I'd like to have you explain about what angle there was between the line of the ship as she was headed and the line of the telescope and tower.

[1197—353]

A. I think it's pretty near; it came in so far in the center of this tower that I should judge she was pretty near in line with the tower and my house up on the hill.

Q. You mean the ship? A. The ship; yes.

Q. What I mean is, could you determine from your point of observation whether or not the vessel had moved at right angles to the line of your telescope or whether she had moved—

A. That, of course, I couldn't say. I give that information for what it is worth. I don't know whether she swung around a little or came straight in.

Q. What I mean is do you know what the angle was, the line of the tower the way she was headed toward the shore in a line from the stern of the ship to the bow, what angle would that line be to the angle of your telescope and tower?

(Testimony of J. A. Kennedy.)

A. From my own impression I take it that she was port side on.

Q. That is, the ship was port side on?

A. That's the way I took it.

Q. I don't think it worth while to get at the location of the ship. That's all.

Recross.

Mr. OLSON.—Q. In other words, Mr. Kennedy, the ship might have been not absolutely at right angles but might have been at obtuse angles?

A. It might have been; I don't know.

Q. You could see the stern of it.

A. I had such a beautiful view of it, that's what made me go up morning and night to watch it, because with the center of the tower, which was a standing mark, there was [1198—354] three marks.

Q. This line from your house to this tower on out, what angle would that be to the boat over to the stern there?

A. Well, I'm up on Punchbowl here and the water came down there and the ship was right on the other side, and my instrument came right through the tower and struck the vessel. I was having the —— here as a point and from my house to the other house was a straight line to my house.

Mr. OLSON.—That's all. [1199—355]

[Testimony of Isaiah Bray for Libelant (Cross-examination Continued).]

Continuation of Cross-examination of ISAIAH BRAY by Libellee.

Mr. OLSON.—Q. Captain Bray, of what vessel were you master when you were sailing down among the South Seas? A. The "Morning Star."

Q. Any other vessel?

A. I was in two by that name and in the schooner "Robert W. Logan."

Q. All of them sailing in the South Seas?

A. Yes.

Q. How many years were you master?

A. Eleven.

Q. How long were you master of the original "Morning Star," the first one?

A. About seven years, I think.

Q. And you were sailing her down among the South Seas? A. Yes.

Q. How large was that ship?

A. It was between five and six tons.

Q. Five and six tons? What was she? What kind of a vessel was she?

A. She was a steam barkentine.

Q. In other words, she had an auxiliary steam service? A. Yes.

Q. Now, what vessel then did you take charge of after her?

A. I took a small schooner that the company had built down there and left her.

Q. What's her name? A. "Robert W. Logan."

Q. How large was she?

(Testimony of Isaiah Bray.)

A. She was quite small; not a hundred tons, I don't think.

Q. How much less than a hundred tons?

A. I think she was about seventy tons.

Q. What kind of a vessel was she? [1200—356]

A. Schooner-rigged.

Q. Auxiliary steam power?

A. No steam power.

Q. How many years did you sail her?

A. I only took her down there and left her down there. That was about seven months.

Q. Did you run her again? A. Yes.

Q. How many times?

A. I ran through the Marshal and Caroline Islands.

Q. Did she go aground at any time when you were master of her? A. No.

Q. So you had no salvage experience with the "Logan"? A. No.

Q. Now, what vessel did you take charge of after you got through with the "Logan"?

A. That was about the last of my regular going to sea.

Q. You did not go to sea regularly after that?

A. No.

Q. How long were you ashore before you went to sea again?

A. Well, I took frequent trips. I went to the Alaskan waters once to bring a steamer down to San Francisco.

Q. What steamer?

A. The steamer "Hattie Gauge."

(Testimony of Isaiah Bray.)

Q. Did she go ashore? A. No.

Q. You had no salvage experience with her?

A. No.

Q. You had no salvage experience with the "Logan," either, in which the "Logan" herself went ashore or some other vessel? A. No.

Q. And that's true of this steamer "Morning Star"? A. Yes. [1201—357]

Q. Of what boat did you next have charge?

A. I think the last sea experience in deep water was taking the steamer "Lihua" to San Francisco.

Q. When was that? A. Five or six years ago.

Q. What kind of a vessel was she?

A. Steam schooner.

Q. Auxiliary steam power? A. No.

Q. No sailing equipment?

A. One of the Inter-Island boats.

Q. She was not a sailing boat? A. No.

Q. She had an auxiliary sailing service?

A. Yes.

Q. Did you go aground with her? A. No.

Q. You have had no deep-sea experience since that time? What about the "Morning Star," Number Two? A. I had no salvage experience on her.

Q. Did you have any deep-sea experience with her?

A. We went ashore a number of times.

Q. Where?

A. Down amongst the Caroline Islands.

Q. When was it that you had this experience with the "Morning Star," Number Two? Oh, you left her ashore. When was it that you had charge of the "Morning Star," Number Two?

(Testimony of Isaiah Bray.)

A. I can't give you the date.

Q. How long were you her master?

A. I was in her four years.

Q. Was that after the first "Morning Star"?

A. Yes.

Q. You were about seven years in the first "Morning Star"? A. Somewhere about that.

Q. What became of her? [1202—358]

A. She was lost.

Q. She was lost where?

A. On the Island of Prigai.

Q. That's down in the South Sea Islands?

A. Yes.

Q. You were then her master?

A. My mate had charge of her when I was at home getting a new one. I went two years in her and then left her for awhile and then went back two years more, I think, as near as I can remember.

Q. Now, was it from these various vessels and your experience on them—are there any other vessels that you have had charge of or been in?

A. I've been in deep-water vessels, ships.

Q. That is, prior to that time? A. Yes.

Q. As master? A. Yes.

Q. Where? A. Around the world voyage.

Q. Had you even been aground in those?

A. I have given you one experience when I was mate.

Q. Where was that? A. Manilla Harbor.

Q. What kind of vessel was that?

A. Full-rigged ship; large ship.

Q. What was her tonnage? A. 1700 tons.

(Testimony of Isaiah Bray.)

Q. How long did it take you to get off?

A. Well, we were working most of one night. We got on in the evening and before morning we were off.

Q. And you did this by means of an anchor?

A. Yes.

Q. What did you do, lay it out astern? A. Yes.

Q. And then apply power to the anchor and heave taut by means of your winch? A. Yes. [1203—359]

Q. Who was in charge of it when you went aground? A. Captain Robert Thomas.

Q. What was he doing during the time you were getting her off?

A. He was aboard watching the operations.

Q. He was directing operations?

A. He had the right to butt in if he wanted to.

Q. He was there supervising the work?

A. He was captain.

Q. And you were the mate? A. Yes.

Q. Then he was in charge of the salving of her, was he not? A. Certainly.

Q. And you were acting under his direction? Now then, during the seven years that you have been captain of, when you had charge of the "Morning Star," the first "Morning Star," how many times did she go aground while you were master?

A. It was quite a frequent occurrence down amongst those coral reefs. I couldn't say how often, or how many times.

Q. You were her master when she went aground these various times? A. Yes, always.

